

**EXHIBIT D**

**IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE**

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IN RE TILE SHOP HOLDINGS, INC. ) Consol. C.A. No. 2019-0892-SG  
LITIGATION )  
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**SCHEDULING ORDER**

**WHEREAS**, a consolidated stockholder action is pending in this Court, entitled *In re Tile Shop Holdings, Inc. Litigation*, Consol. C.A. No. 2019-0892-SG (the “Action”);

**WHEREAS**, (a) plaintiffs K-Bar Holdings LLC and Wynnefield Capital, Inc. (together, “Plaintiffs”), on behalf of themselves and the Settlement Class (defined below) and derivatively on behalf of the Company (defined below); (b) Cabell Lolmaugh, Robert A. Rucker, Peter J. Jacullo III, Peter H. Kamin, Todd Krasnow and Philip B. Livingston (collectively, the “Individual Defendants”); and (c) Nominal Defendant Tile Shop Holdings, Inc. (“Tile Shop” or the “Company” and, together with the Individual Defendants, “Defendants”) (Plaintiffs and Defendants, together, the “Parties”) have determined to settle all claims asserted against Defendants in the Action with prejudice on the terms and conditions set forth in the Stipulation of Settlement entered into by the Parties dated August 7, 2020 (the “Stipulation”); and

**WHEREAS**, in accordance with the Stipulation, the Parties have made an application, pursuant to Court of Chancery Rule 23 and 23.1(c), for entry of a

scheduling order in accordance with the Stipulation, approving the form and content of the notice of the Settlement to the Settlement Class and Current Tile Shop Stockholders, and scheduling the date and time for the Settlement Hearing; and

**WHEREAS**, the Court having read and considered the Stipulation and the exhibits attached thereto; the Stipulation being sufficient to warrant notice to the Settlement Class and Current Tile Shop Stockholders; and all Parties having consented to the entry of this Order.

**NOW THEREFORE, IT IS HEREBY ORDERED**, this 12th day of August, 2020, as follows:

1. **Definitions**: Unless otherwise defined herein, capitalized terms used herein shall have the same meanings given to them in the Stipulation.
2. **Jurisdiction**: The Court has jurisdiction over the subject matter of the Action, and all matters relating to the Settlement, as well as personal jurisdiction over Plaintiffs, Defendants, and each of the Settlement Class Members and Current Tile Shop Stockholders.
3. **Preliminary Class Certification for Settlement Purposes**: The Court hereby preliminarily certifies, solely for purposes of effectuating the proposed Settlement, the Action as a non-opt out class action pursuant to Court of Chancery Rules 23(a), 23(b)(1) and 23(b)(2), on behalf of a Settlement Class consisting of all

record and beneficial holders of Tile Shop Common Stock as of October 18, 2019. Excluded from the Settlement Class are Defendants; any affiliate (as defined in 17 C.F.R. § 230.405) of the Individual Defendants; any parents, affiliates, or subsidiaries of the Company; any officer or director of the Company; members of the immediate families of the Individual Defendants and of any officer or director of the Company; Defendants' directors' and officers' liability insurance carriers and any parents, affiliates, or subsidiaries thereof; persons who held shares of Tile Shop common stock that were borrowed as part of a short sale transaction (only with respect to their holdings in such borrowed shares); and the legal representatives, agents, heirs, successors, and assigns of any such excluded Person.

4. Solely for purposes of the Settlement, Plaintiffs are preliminarily appointed as representatives for the Settlement Class and Lead Counsel are preliminarily appointed as counsel for the Settlement Class.

5. **Settlement Hearing:** The Court will hold a hearing (the "Settlement Hearing") on October 12, 2020, at 1:30 p.m., at the Court of Chancery of the State of Delaware, Sussex County Courthouse, 34 The Circle, Georgetown, DE 19947, or by telephone or videoconference (in the discretion of the Court), to determine: (a) whether the Action may be permanently maintained as a non-opt out class action and whether the Settlement Class should be certified permanently, for purposes of the Settlement, pursuant to Court of Chancery Rules 23(a), 23(b)(1) and 23(b)(2); (b)

whether Plaintiffs may be permanently designated as representatives for the Settlement Class and Lead Counsel as counsel for the Settlement Class, and whether Plaintiffs and Lead Counsel have adequately represented the interests of the Settlement Class in the Action; (c) whether the proposed Settlement on the terms and conditions provided for in the Stipulation is fair, reasonable, and adequate to the Settlement Class and the Company, and should be approved by the Court; (d) whether a Judgment, substantially in the form attached as Exhibit B to the Stipulation should be entered dismissing the Action with prejudice against Defendants; (e) whether the proposed Plan of Allocation of the Net Cash Settlement Fund is fair and reasonable, and should therefore be approved; (f) whether the application by Lead Counsel for an award of attorneys' fees, reimbursement of litigation expenses, and incentive awards for Plaintiffs should be approved; and (g) to consider any other matters that may properly be brought before the Court in connection with the Settlement. Notice of the Settlement and the Settlement Hearing shall be given to Settlement Class Members and Current Tile Shop Stockholders as set forth in Paragraph 9 of this Order.

6. The Court reserves the right to adjourn and reconvene the Settlement Hearing, including consideration of the proposed Plan of Allocation and Lead Counsel's fee and expense application, without further notice to the Settlement Class

or Current Tile Shop Stockholders other than by announcement at the Settlement Hearing or any adjournment thereof.

7. The Court reserves the right to approve the Settlement at or after the Settlement Hearing with such modifications as may be consented to by the Parties and without further notice to the Settlement Class.

8. The Court may decide to hold the Settlement Hearing by telephone or video conference without further notice to the Settlement Class or Current Tile Shop Stockholders. Any Settlement Class Member or Current Tile Shop Stockholder (or his, her, or its counsel) who wishes to appear at the Settlement Hearing should consult the Court's docket and/or the settlement website for any change in date, time, or format of the hearing.

9. **Retention of Claims Administrator and Manner of Giving Notice:**  
Lead Counsel is hereby authorized to retain JND Legal Administration as the claims administrator (the "Claims Administrator") to provide notice to the Settlement Class and Current Tile Shop Stockholders and administer the Settlement, including the processing of Claims and distribution of the Cash Settlement Fund. Notice of the Settlement and the Settlement Hearing shall be given as follows:

(a) Within five (5) business days of the date of entry of this Order, Defendants shall provide or cause to be provided to the Claims Administrator in electronic format (at no cost to the Cash Settlement Fund, Plaintiffs' Counsel, or the

Claims Administrator) a list (consisting of names and addresses) of the record holders of Tile Shop Common Stock as of October 18, 2019 and June 30, 2020;

(b) Beginning not later than twenty (20) business days after the date of entry of this Order (such date that is twenty (20) business days after the date of entry of this Order, the “Notice Date”), the Claims Administrator shall cause a copy of the Notice and the Claim Form, substantially in the forms attached to the Stipulation as Exhibits C and A, respectively (collectively, the “Notice Packet”), to be mailed by first-class mail to potential Settlement Class Members and Current Tile Shop Stockholders at the addresses set forth in the records provided by Defendants or in the records which Defendants caused to be provided, or who otherwise may be identified through further reasonable effort;

(c) Not later than the Notice Date, the Claims Administrator shall post a copy of the Notice and the Claim Form on the website established for the Settlement;

(d) Not later than ten (10) business days after the Notice Date, the Claims Administrator shall cause the Summary Notice, substantially in the form attached to the Stipulation as Exhibit E, to be published once in *Investor’s Business Daily* and to be transmitted once over the *PR Newswire*; and

(e) Not later than seven (7) calendar days prior to the Settlement Hearing, Lead Counsel shall serve on Defendants' Counsel and file with the Court proof, by affidavit or declaration, of such mailing and publication.

10. **Approval of Form and Content of Notice:** The Court (a) approves, as to form and content, the Notice, attached to the Stipulation as Exhibit C, and the Summary Notice, attached to the Stipulation as Exhibit E, and (b) finds that the mailing of the Notice and Claim Form and publication of the Summary Notice in the manner and form set forth in Paragraph 9 of this Order: (i) is the best notice practicable under the circumstances; (ii) constitutes notice that is reasonably calculated, under the circumstances, to apprise Settlement Class Members and Current Tile Shop Stockholders of the pendency of the Action, of the effect of the proposed Settlement (including the releases to be provided thereunder), of Lead Counsel's application for an award of attorneys' fees, reimbursement of litigation expenses, and incentive awards for Plaintiffs, of their right to object to the Settlement, and/or their right to appear at the Settlement Hearing; (iii) constitutes due, adequate, and sufficient notice to all persons and entities entitled to receive notice of the proposed Settlement; and (iv) satisfies the requirements of Court of Chancery Rules 23 and 23.1, the United States Constitution (including the Due Process Clause), and all other applicable law and rules. The date and time of the

Settlement Hearing shall be included in the Notice and Summary Notice before they are mailed, posted, and published, respectively.

11. **Nominees Procedures:** Brokers and other nominees that held shares of Tile Shop common stock as record holders for the benefit of another person or entity shall either (a) within seven (7) calendar days of receipt of the Notice, request from the Claims Administrator sufficient copies of the Notice to forward to all such beneficial owners and within seven (7) calendar days of receipt of those Notices forward them to all such beneficial owners; or (b) within seven (7) calendar days of receipt of the Notice, send a list of the names and addresses of all such beneficial owners to the Claims Administrator, in which event the Claims Administrator shall promptly mail the Notice to such beneficial owners. Upon full compliance with this Order, such nominees may seek reimbursement of their reasonable expenses actually incurred in complying with this Order by providing the Claims Administrator with proper documentation supporting the expenses for which reimbursement is sought. Such properly documented expenses incurred by nominees in compliance with the terms of this Order shall be paid by Defendants, with any disputes as to the reasonableness or documentation of expenses incurred subject to review by the Court.

12. **Participation in the Settlement:** Settlement Class Members who wish to be eligible to receive a distribution from the Net Cash Settlement Fund must



complete and submit a Claim Form in accordance with the instructions contained therein. Unless the Court orders otherwise, all Claim Forms must be postmarked no later than one hundred twenty (120) calendar days after the Notice Date. Notwithstanding the foregoing, Lead Counsel may, at its discretion, accept for processing late Claims provided such acceptance does not delay the distribution of the Net Cash Settlement Fund to the Settlement Class. By submitting a Claim, a person or entity shall be deemed to have submitted to the jurisdiction of the Court with respect to his, her, or its Claim and the subject matter of the Settlement.

13. Each Claim Form submitted must satisfy the following conditions: (a) it must be properly completed, signed, and submitted in a timely manner in accordance with the provisions of the preceding paragraph; (b) it must be accompanied by adequate supporting documentation for the transactions and holdings reported therein, in the form of broker confirmation slips, broker account statements, an authorized statement from the broker containing the transactional and holding information found in a broker confirmation slip or account statement, or such other documentation as is deemed adequate by Lead Counsel or the Claims Administrator; (c) if the person executing the Claim Form is acting in a representative capacity, a certification of his, her, or its current authority to act on behalf of the Settlement Class Member must be included in the Claim Form to the satisfaction of Lead Counsel or the Claims Administrator; and (d) the Claim Form

must be complete and contain no material deletions or modifications of any of the printed matter contained therein and must be signed under penalty of perjury.

14. Any Settlement Class Member that does not timely and validly submit a Claim Form or whose Claim is not otherwise approved by the Court: (a) shall be deemed to have waived his, her, or its right to share in the Net Cash Settlement Fund; (b) shall be forever barred from participating in any distributions therefrom; (c) shall be bound by the provisions of the Stipulation and the Settlement and all proceedings, determinations, orders, and judgments in the Action relating thereto, including, without limitation, the Judgment and the Releases provided for therein, whether favorable or unfavorable to the Settlement Class; and (d) will be barred from commencing, maintaining, or prosecuting any of the Released Plaintiffs' Claims against each and all of the Defendants' Releasees, as more fully described in the Stipulation and Notice. Notwithstanding the foregoing, late Claim Forms may be accepted for processing as set forth in paragraph 12 above.

15. **Appearance at Settlement Hearing and Objections:** Unless the Court orders otherwise, any Settlement Class Member or Current Tile Shop Stockholder may enter an appearance in the Action, at his, her, or its own expense, individually or through counsel of his, her or its own choice, by filing with the Register in Chancery and delivering a notice of appearance to representative counsel for Plaintiffs and Defendants, at the addresses set forth in Paragraph 16 below, such

that it is received no later than ten calendar days prior to the Settlement Hearing, or as the Court may otherwise direct. Any Settlement Class Member or Current Tile Shop Stockholder who does not enter an appearance will be represented by Lead Counsel, and shall be deemed to have waived and forfeited any and all rights he, she, or it may otherwise have to appear separately at the Settlement Hearing.

16. Any Settlement Class Member or Current Tile Shop Stockholder may file a written objection to the proposed Settlement, Plan of Allocation, and/or Lead Counsel's application for an award of attorneys' fees, reimbursement of litigation expenses, and incentive awards for Plaintiffs and appear and show cause ("Objector"), if he, she, or it has any cause, why the proposed Settlement, Plan of Allocation, and/or the application for attorneys' fees, litigation expenses, and incentive awards should not be approved; *provided, however*, that, unless otherwise directed by the Court for good cause shown, no Objector shall be heard or entitled to contest the approval of the terms and conditions of the proposed Settlement, Plan of Allocation, and/or the application for attorneys' fees, litigation expenses, and incentive awards unless that person or entity has filed a written objection with the Register in Chancery, Court of Chancery, Leonard L. Williams Justice Center, 500 North King Street, Wilmington, Delaware 19801, and served (electronically by File & Serve*Xpress*, by hand, by first class U.S. mail, or by express service) copies of the

objection upon each of the following counsel at the following addresses such that they are received no later than ten (10) calendar days prior to the Settlement Hearing:

*Lead Counsel for Plaintiffs:*

Mark Lebovitch  
BERNSTEIN LITOWITZ BERGER & GROSSMANN LLP  
1251 Avenue of the Americas  
New York, NY 10020

*Counsel for Defendants Peter J. Jacullo III, Peter H. Kamin, Cabell Lolmaugh, Todd Krasnow, and Philip B. Livingston:*

Greg Shinall  
SPERLING & SLATER, P.C.  
55 West Monroe St., Suite 3200  
Chicago, IL 60603

*Counsel for Defendant Robert A. Rucker:*

Bret A. Puls  
FOX ROTHSCHILD LLP  
222 South Ninth Street, Suite 2000  
Minneapolis, MN 55402

*Counsel for Nominal Defendant Tile Shop Holdings, Inc.:*

Kenneth J. Nachbar  
MORRIS, NICHOLS, ARSHT & TUNNELL LLP  
1201 North Market Street  
Wilmington, Delaware 19801

17. Any objections must: (a) state the name, address, and telephone number of the Objector and, if represented by counsel, the name, address, and telephone number of his, her, or its counsel; (b) be signed by the Objector; (c) contain a specific, written statement of the objection(s) and the specific reason(s) for the

objection(s), including any legal and evidentiary support the Objector wishes to bring to the Court's attention, and if the Objector has indicated that he, she, or it intends to appear at the Settlement Hearing, the identity of any witnesses the Objector may call to testify and any exhibits the Objector intends to introduce into evidence at the hearing; (d) state the objection is being filed with respect to "*In re Tile Shop Holdings, Inc. Litigation.*, Consol. C.A. No. 2019-0892-SG"; and (e) include documentation sufficient to prove that the Objector is a member of the Settlement Class and/or a Current Tile Shop Stockholder. Documentation establishing that an Objector is a member of the Settlement Class and/or a Current Tile Shop Stockholder must consist of copies of monthly brokerage account statements or an authorized statement from the Objector's broker containing the transactional and holding information found in an account statement.

18. Unless the Court orders otherwise, any Settlement Class Member or Current Tile Shop Stockholder who or which does not make his, her, or its objection in the manner provided herein shall: (a) be deemed to have waived and forfeited his, her, or its right to object to any aspect of the proposed Settlement, Plan of Allocation, or Lead Counsel's application for an award of attorneys' fees, reimbursement of litigation expenses, and incentive awards for Plaintiffs; (b) be forever barred and foreclosed from objecting to the fairness, reasonableness, or adequacy of the Settlement; the Judgment to be entered approving the Settlement; the Plan of

Allocation; or the attorneys' fees, litigation expenses, or incentive awards requested or awarded; and (c) be deemed to have waived and forever barred and foreclosed from being heard, in this or any other proceeding, with respect to any matters concerning the Settlement, the Plan of Allocation, or the requested or awarded attorneys' fees, litigation expenses, or incentive awards.

19. **Stay and Temporary Injunction:** Until otherwise ordered by the Court, the Court stays all proceedings in the Action other than proceedings necessary to carry out or enforce the terms and conditions of the Stipulation. Pending final determination by the Court of whether the Settlement should be approved, the Court bars and enjoins Plaintiffs, and all other members of the Settlement Class, from instituting, commencing, or prosecuting any and all of the Released Claims against any and all of the Released Persons.

20. **Cash Settlement Fund:** The contents of the Cash Settlement Fund that will be held in the Account shall be deemed and considered to be *in custodia legis* of the Court, and shall remain subject to the exclusive jurisdiction of the Court, until such time as they shall be distributed pursuant to the Stipulation and/or further order(s) of the Court.

21. **Notice Costs and Administrative Costs:** All Notice Costs shall be paid by Defendants and all Administrative Costs shall be paid or reimbursed out of

the Cash Settlement Fund in accordance with the terms of the Stipulation without further order of the Court.

22. **Taxes:** Lead Counsel are authorized and directed to prepare any tax returns and any other tax reporting form for or in respect to the Cash Settlement Fund, to pay from the Cash Settlement Fund any Taxes owed with respect to the Cash Settlement Fund, and to otherwise perform all obligations with respect to Taxes and any reporting or filings in respect thereof without further order of the Court in a manner consistent with the provisions of the Stipulation.

23. **Termination of Settlement:** If the Settlement is terminated as provided in the Stipulation or the Effective Date of the Settlement otherwise fails to occur, this Order shall be vacated, rendered null and void, and be of no further force and effect, except as otherwise provided by the Stipulation, and this Order shall be without prejudice to the rights of the Parties and the Settlement Class, and the Parties shall revert to their respective positions in the Action as of immediately prior to June 30, 2020, as provided in the Stipulation.

24. **Supporting Papers:** Lead Counsel shall file and serve the opening papers in support of the proposed Settlement, Plan of Allocation, and Lead Counsel's application for an award of attorneys' fees, reimbursement of litigation expenses, and incentive awards for Plaintiffs no later than seventeen (17) calendar days prior to the Settlement Hearing. Any objections to the Settlement and/or the application

for an award of attorneys' fees and litigation expense shall be filed and served no later than ten (10) calendar days prior to the Settlement Hearing. If reply papers are necessary, they are to be filed and served no later than three (3) calendar days prior to the Settlement Hearing.

25. **Retention of Jurisdiction:** The Court retains exclusive jurisdiction to consider all further applications arising out of or connected with the proposed Settlement.

/s/Sam Glasscock III  
Vice Chancellor Sam Glasscock III