UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

SUMMARY ORDER

RULINGS BY SUMMARY ORDER DO NOT HAVE PRECEDENTIAL EFFECT. CITATION TO A SUMMARY ORDER FILED ON OR AFTER JANUARY 1, 2007, IS PERMITTED AND IS GOVERNED BY FEDERAL RULE OF APPELLATE PROCEDURE 32.1 AND THIS COURT'S LOCAL RULE 32.1.1. WHEN CITING A SUMMARY ORDER IN A DOCUMENT FILED WITH THIS COURT, A PARTY MUST CITE EITHER THE FEDERAL APPENDIX OR AN ELECTRONIC DATABASE (WITH THE NOTATION "SUMMARY ORDER"). A PARTY CITING A SUMMARY ORDER MUST SERVE A COPY OF IT ON ANY PARTY NOT REPRESENTED BY COUNSEL.

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, in the City of New York, on the 17th day of March, two thousand eleven.

PRESENT: DENNIS JACOBS,
Chief Judge,
PIERRE N. LEVAL,
REENA RAGGI,
Circuit Judges.

- -X

IN RE: AMERICAN INTERNATIONAL GROUP, INC. DERIVATIVE LITIGATION **10-1658-CV**

- -X

FOR APPELLANT: ALBERT M. MYERS, Kahn Swick & Foti, LLC, Madisonville, Louisiana (Brian J. Robbins, Felipe J. Arroyo, and Robbins Umeda LLP, San Diego, California, Thomas G. Amon, New York, New York, on the brief).

FOR APPELLEE: JOSEPH S. ALLERHAND (Stephen A. Radin, Robert F. Carangelo, Stacy Nettleton, Robert V. Spake, Jr., on the brief), Weil Gotshal & Manges LLP, New York, New York.

Appeal from a judgment of the United States District Court for the Southern District of New York (Swain, J.).

UPON DUE CONSIDERATION, IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the judgment of the district court be **AFFIRMED**.

Louisiana Municipal Police Employees Retirement System ("Louisiana Municipal") appeals from a judgment of the United States District Court for the Southern District of New York (Swain, J.), dismissing its shareholder derivative action brought against nominal defendant, American International Group, Inc., and against individual current and former officers and directors.

Louisiana Municipal asserts claims of breach of fiduciary duty, waste of corporate assets, contribution, and unjust enrichment. Louisiana Municipal also asserts violations of the Securities Exchange Act of 1934 ("Exchange Act") Section 20(a), 15 U.S.C. § 78t(a); Exchange Act Section 10(b), 15 U.S.C. § 78j(b); and Rule 10b-5, promulgated under the Exchange Act, 17 C.F.R. § 240.10b-5.

The district court dismissed Louisiana Municipal's complaint for failure to make a demand on the relevant board of directors of AIG. Fed. R. Civ. P. 23.1. We assume the parties' familiarity with the underlying facts, the procedural history, and the issues presented for review.

Having conducted the requisite review of the record, see Scalisi v. Fund Asset Mgmt., L.P., 380 F.3d 133, 137 (2d Cir. 2004), we affirm the dismissal of Louisiana Municipal's complaint for substantially the reasons stated in the district court's thorough and well-reasoned opinion. In re Am. Int'l Grp., Inc. Derivative Litig., 700 F. Supp. 2d 419 (S.D.N.Y. 2010) (Swain, J.).

Under applicable Delaware law, "directors are entitled to a presumption that they were faithful to their fiduciary duties," and a shareholder seeking to bring a derivative suit bears the burden of "overcom[ing] that presumption." Beam v. Stewart, 845 A.2d 1040, 1048-49 (Del. 2004) (emphasis omitted). Louisiana Municipal has not alleged with sufficient particularity that demand on the board would have been futile. See Brehm v. Eisner, 746 A.2d 244, 254 (Del. 2000). Accordingly, the failure to make a pre-suit

demand is not excused. See Wood v. Baum, 953 A.2d 136, 140 (Del. 2008).

Having considered all of Louisiana Municipal's arguments presented on appeal, we hereby **AFFIRM** the judgment of the district court.

FOR THE COURT:
CATHERINE O'HAGAN WOLFE, CLERK