1)

1) What claims can Pick shareholders bring against Alex (A) and Baker (B)?

Shareholders Duties

Shareholder's duties include ownership rights, electing directors and officers, and buying and selling stock shares. Here, the shareholders of Pick elected A, B, and C to act as the sole members of Pick's board of directors. It was within the pick shareholders' power to elect such members, and thus, the election of the board was proper.

Derivative Suit

When shareholders are not satisfied with their board or actions taken in the corp by the board, they may bring the issue before the Board. The shareholders must first make a written demand to the Board. If denied, the shareholders may bring a derivative suit, unless doing so would be futile. To determine whether a matter is futile, it must be assessed whether any of the board members have a significant interest in the transaction at issue.

Here, Pick's shareholders were not satisfied when they learned of C's operation of E-save and the board's actions. The shareholders made a wirrten demand for the baord to take remedial action but was denied. The shareholders now want to bring suit and may do so as a derivative suit. We are told that Pick is losing money due to the decline of its market share and stock prices. C's new company E-save, however, is generating large profits. A and B don't have a stake in the matter (the matter being E-save) becasue C started E-save, not A and B. So, the derivative suit would not be futile, and the shareholders may bring it against A and B.

Breach of Director Duties

Directors owe a duty of care and a duty of loyalty to a corporation.

Duty of Care

The shareholders of Pick may be able to claim that A and B breached their duty of care as directors of Pick. A director's duty of care is measured under the reasonably prudent person standard. A director must act as a reasonably prudent director in similar circumstances would act. Further, under the business judgment rule, a director must also make reasonable decisions for the corporation with due care. A decision will not a be a violation of the duty of care if 1) it was an informed decision make in good faith based on adequate information, and 2) it was made in the best interests of the business and made to further a buisness purpose.

Here, Pick's market share and stock price were on the decline. C believed that A and B focused too much on wealthy investors and ignored average consumers, all of which C beleived was the cause of Pick's decline. As a result, C proposed starting a subsidiary company, that could focus on the low-priced end of the market. A and B disagreed and C went on to start the subsidiary company independently. A and B had a duty of care to act as a reasonably prudent director would if given a similar proposal by a fellow board member. A and B argued agaisnt C's proposal stating that Pick's decline just mirrored the overall recent delcine in the market. They further stated that they hired an analysts 2 motnhs prior who concluded that the low-end of the market was not worth targeting becasue there was no money in it. However, a reasonably prudent directors in A and B's position should have considered C's proposal. A and B also should have considered hiring another anlayst becasue the market changes so quickly and can dramtically change fromt one day to the next. Thus, A and B liekly violated their duty of care.

Further, A and B's deicsion to 1) 2)

Breach Duty of Loyalty

The shareholders of Pick may be able to claim that A and B breached their duty of loyalty as directors of Pick. A directors's duty of loyalty requires directors to put the corporations interests above all other interests. This also includes avoiding conflicts of interest, and no self-dealing.

Here,

2) What claims can Pick shareholders bring against Cate (C)?

Breach Duty of Loyalty

The shareholders of Pick may be able to claim that C breached her duty of loyalty as a director of Pick. Included in a director's duty of loyalty, a director may not engage in unfair competition.

Here, after her proposal was denied by A and B about created a subsidiary company of Pick, C decided to go off and do just that on her own. C created E-save, which immediately began generating large profits. C was still a Pick board member when she created E-save, and had a duty not to engage in unfair competition against her company, Pick. Because E-save and Pick operate within the same market, C creating E-save created unfair competition for Pick and could have contributed to Pick's decline.

C might argue that P was not targeting the low-end of the market, which is precisely what she created E-save to do. C will assert that becasue Pick was not investing in an area that E-save wa sinvesting in, there is no unfair competition by her creation of E-save. However, Pick had the potential to target the low end of the market and just because they hadnt done so, does not negate the fact that C's ceration of E-save was unfair to Pick because she was on the board of Pick. Thus, the sharehodlers can claim that C breached her duty of loaylty.

Question #1 Final Word Count = 902

END OF EXAM