UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

DANIEL YANNES, Individually and On Behalf of All Others Similarly Situated, Plaintiff, v. SCWORX CORP., and MARC S. SCHESSEL, Defendants.	Case No. 1:20-CV-03349-JGK CLASS ACTION
CAITLIN LEEBURN, Individually and On Behalf of All Others Similarly Situated, Plaintiff, v. SCWORX CORP. and MARC S. SCHESSEL, Defendants.	Case No. 1:20-CV-04072-JGK

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BHUPANDER VIRK'S MEMORANDUM OF LAW IN SUPPORT OF HIS MOTION FOR (1) CONSOLIDATION; (2) APPOINTMENT AS LEAD PLAINTIFF; AND (3) APPROVAL OF LEAD COUNSEL

JONATHON CHARLES LEONARD, On Behalf of Himself and All Others Similarly Situated, Plaintiff, v. SCWORX CORP. and MARC S. SCHESSEL, Defendants.	Case No. 1:20-CV-04777-JMF

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Bhupander Virk ("Virk") respectfully submits this memorandum of law pursuant to § 21D(a)(3)(B) of the Securities Exchange Act of 1934 ("Exchange Act"), 15 U.S.C. §78u-4(a)(3)(B), as amended by Private Securities Litigation Reform Act of 1995 ("PSLRA") in support of his motion for the entry of an order (1) consolidating the above-captioned actions (the "Actions"), (2) appointing Virk as Lead Plaintiff, and (3) approving Virk's selection of the law firm of Faruqi & Faruqi, LLP (the "Faruqi Firm") as Lead Counsel.[1]

PRELIMINARY STATEMENT

The above-captioned securities class Actions are brought on behalf of a putative class (the "Class") of persons or entities who purchased or otherwise acquired the securities of SCWorx Corporation ("SCWorx" or the "Company") between April 13, 2020 and April 17, 2020, both dates inclusive (the "Class Period").[2]

As an initial matter, the Court must decide whether to consolidate the Actions. *See* 15 U.S.C. § 78u-4(a)(3)(B)(ii). Pursuant to Rule 42(a)(2) of the Federal Rules of Civil Procedure,

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[1] Unless stated otherwise, the following conventions apply: (1) all internal citations are omitted; (2) all emphases are added; and (3) all "Ex. _" references are to the exhibits attached to the Declaration Of Richard W. Gonnello filed herewith.

[2] The following related actions are pending in this District: (1) *Yannes v. SCWorx Corp. et al.*, No. 1:20-cv-03349-JGK, ECF No. 1 (S.D.N.Y.) ("*Yannes*"), which was filed on April 29, 2020; (2) *Leeburn v. SCWorx Corp. et al,* No. 1:20-cv-04072-JGK, ECF No. 1 (S.D.N.Y.) ("*Leeburn*"), which was filed on May 27, 2020; and (3) *Leonard v. SCWorx Corp. et al*, No. 1:20-vc-04777-JMF, ECF No. 1 (S.D.N.Y.) ("*Leonard*"), which was filed on June 22, 2020. With respect to the *Leonard* action, Virk anticipates that the *Leonard* Action will be transferred to the court presiding over the earlier-filed *Yannes* and *Leeburn* actions. *See* Southern District of New York, Division of Business Among District Judges, R. 13(b)(2).

the Court may consolidate the actions before it that involve a common question of law or fact. Fed. R. Civ. P. 42(a)(2). The Actions may be consolidated as they allege violations of §§ 10(b) and 20(a) of the Exchange Act and Securities and Exchange Commission ("SEC") Rule 10b-5, promulgated thereunder. The Actions also allege substantially similar misconduct by the Company and its officers. As the Actions raise common issues of fact and law, and consolidation will be more efficient for the Court and the parties, the Actions should be consolidated.

With respect to the appointment of a lead plaintiff to oversee the consolidated Actions, Congress established a presumption in the PSLRA that requires the Court to appoint the "most adequate plaintiff" as the lead plaintiff for the Action. 15 U.S.C. § 78u-4(a)(3)(B)(i). The "most adequate plaintiff" is the person who has the "largest financial interest in the litigation" and who also satisfies Rule 23's typicality and adequacy requirements for class representatives. *See* 15 U.S.C. § 78u-4(a)(3)(B)(iii)(I).

With losses of $123,106.64, *inter alia*, Virk, to the best of counsel's knowledge, has the largest financial interest in the litigation of any movant. Virk also satisfies Rule 23's typicality and adequacy requirements. Virk's claims are typical of the Class's claims because he suffered losses on his SCWorx investment as a result of the defendants' false and misleading statements. Further, Virk has no conflict with the Class and will adequately protect the Class's interests given his significant stake in the litigation and his conduct to date in prosecuting the litigation, including his submission of the requisite certification and selection of experienced class counsel. Accordingly, Virk is the presumptive Lead Plaintiff.

Lastly, if appointed Lead Plaintiff, Virk is entitled to select, subject to the Court's approval, lead counsel to represent the Class. *See* 15 U.S.C. § 78u-4(a)(3)(B)(v). Virk has

engaged the Faruqi Firm for this purpose. The Faruqi Firm is an appropriate selection to serve as Lead Counsel because it is a highly experienced firm with substantial securities class action experience.

For the reasons summarized above and those explained more fully below, Virk's motion should be granted in its entirety.

FACTUAL BACKGROUND

SCWorx is a Delaware corporation with its principal executive offices located in New York City, New York. *Yannes*, Class Action Complaint For Violation Of The Federal Securities Laws at ¶15, ECF No. 1 ("*Yannes* Compl."); *Leeburn*, Class Action Complaint For Violation Of The Federal Securities Laws at ¶15, ECF No. 1 ("*Leeburn* Compl."); *Leonard*, Class Action Complaint For Violation Of The Federal Securities Laws at ¶19, ECF No. 1 ("*Leonard* Compl."). SCWorx provides data content and services related to the repair, normalization and interoperability of information for healthcare providers. *Yannes* Compl. ¶17; *Leeburn* Compl. ¶17; *Leonard* Compl. ¶21. SCWorx's common stock trades on the NASDAQ exchange under the symbol "WORX." *Yannes* Compl. ¶15; *Leeburn* Compl. ¶15; *Leonard* Compl. ¶19.

The complaints in the Actions allege that the defendants knowingly and/or recklessly made false and/or misleading statements and/or failed to disclose, *inter alia*: (1) that SCWorx's supplier for COVID-19 tests had previously misrepresented its operations; (2) that SCWorx's buyer was a small company that was unlikely to adequately support the purported volume of orders for COVID-19 tests; (3) that, as a result, the Company's purchase order for COVID-19 tests had been overstated or entirely fabricated; and (4) that, as a result of the foregoing, Defendants' positive statements about the Company's business, operations, and prospects, were

materially misleading and/or lacked a reasonable basis. *Yannes* Compl. ¶20; *Leeburn* Compl. ¶20; *Leonard* Compl. ¶24.

The truth first emerged on April 14, 2020, when Utopia Capital Research issued a report questioning the validity of the Company's announcement, describing it as "ludicrous," "very difficult to believe," and questioning managements' credibility in connection with the previous day's press release and earlier claims. *Leonard* Compl. ¶25.

On this news, the price of SCWorx's common stock dropped $3.57 per share, or approximately 30%, to close at $8.45 per share on April 14, 2020. *Leonard* Compl. ¶26.

Then, on April 17, 2020, Hindenburg Research issued a report, entitled "SCWorx: Evidence Points to its Massive COVID-19 Test Deal Being Completely Bogus, Price Target Back to $2.25 Or Lower," doubting the validity of the deal and calling it "completely bogus" in light of Chief Executive Officer Marc Schessel's checkered past, the questionable credibility of supplier ProMedical Equipment Pty Ltd., and the relatively small size of SCWorx's purported client Rethink My Healthcare. *Yannes* Compl. ¶21; *Leeburn* Compl. ¶21; *Leonard* Compl. ¶30.

On this news, the Company's share price fell $1.19, or more than 17%, over three consecutive trading days to close at $5.76 per share on April 21, 2020, on unusually heavy trading volume. *Yannes* Compl. ¶22; *Leeburn* Compl. ¶22; *Leonard* Compl. ¶31.

Then, on April 22, 2020, the SEC halted trading of the Company's stock. *Yannes* Compl. ¶23; *Leeburn* Compl. ¶23; *Leonard* Compl. ¶32.

Through the Actions, Virk seeks to recover for himself and absent class members the substantial losses that were suffered as a result of the defendants' fraud.

ARGUMENT

I. THE ACTIONS SHOULD BE CONSOLIDATED FOR ALL PURPOSES

The PSLRA provides that, "[i]f more than one action on behalf of a class asserting substantially the same claim or claims arising under this chapter has been filed," the court shall not determine the most adequate plaintiff "until after the decision on the motion to consolidate is rendered." 15 U.S.C. § 78u-4(a)(3)(B)(ii) (the PSLRA advises courts to make the decision regarding the appointment of the lead plaintiff for the consolidated action "as soon as practicable after [the consolidation] decision is rendered").

Consolidation is appropriate when the actions before the court involve a common question of law or fact. *See* Fed. R. Civ. P. 42(a); *Malcolm v. Nat'l Gypsum Co.*, 995 F.2d 346, 350 (2d Cir. 1993) (citing *Johnson v. Celotex Corp.*, 899 F.2d 1281, 1284 (2d Cir. 1990)); *In re Tronox, Inc. Sec. Litig.,* 262 F.R.D. 338, 344 (S.D.N.Y. 2009) (consolidating securities class actions); *Blackmoss Invs., Inc. v. ACA Capital Holdings, Inc.,* 252 F.R.D. 188, 190 (S.D.N.Y. 2008) (same). Differences in causes of action, defendants, or the class period do not render consolidation inappropriate if the cases present sufficiently common questions of fact or law, and the differences do not outweigh the interest of judicial economy served by consolidation. *Kaplan v. Gelfond*, 240 F.R.D. 88, 91 (S.D.N.Y. 2007); *see In re GE Sec. Litig.,* No. 09 Civ. 1951 (DC), 2009 WL 2259502, at *2-3 (S.D.N.Y. July 29, 2009) (consolidating actions asserting different claims against different defendants over different class periods).

The Actions at issue here clearly involve common questions of fact ***and*** law. The Actions assert claims under the Exchange Act on behalf of investors who were defrauded by the defendants. The Actions allege substantially the same wrongdoing, namely that the defendants issued materially false and misleading statements that artificially inflated the price of SCWorx securities and subsequently damaged the Class when the Company's stock price crashed as the

truth emerged. *See* Factual Background, *supra*. Consolidation of the Actions is therefore appropriate. *See Bassin v. Decode Genetics, Inc.*, 230 F.R.D. 313, 315 (S.D.N.Y. 2005) (consolidation is particularly appropriate in the context of securities class actions where the complaints are based on the same statements and the defendants will not be prejudiced).

II. VIRK IS ENTITLED TO BE APPOINTED LEAD PLAINTIFF FOR THE CLASS

A. The PSLRA Standard For Appointing Lead Plaintiff

The PSLRA governs the appointment of a lead plaintiff for "each private action arising under the [Exchange Act] that is brought as a plaintiff class action pursuant to the Federal Rules of Civil Procedure." *See* 15 U.S.C. § 78u-4(a)(l); *see also* 15 U.S.C. § 78u-4(a)(3)(B). It provides that within 20 days of the filing of the action, the plaintiff is required to publish notice in a widely circulated business-oriented publication or wire service, informing class members of their right to move the Court, within 60 days of the publication, for appointment as lead plaintiff. *Baughman v. Pall Corp.*, 250 F.R.D. 121, 125 (E.D.N.Y. 2008) (citing 15 U.S.C. § 78u-4(a)(3)(A)).

Under the PSLRA, the Court is then to consider any motion made by class members and is to appoint as lead plaintiff the movant that the Court determines to be "most capable of adequately representing the interests of class members." 15 U.S.C. § 78u-4(a)(3)(B)(i). Further, the PSLRA establishes a rebuttable presumption that the "most adequate plaintiff" is the person that:

> (aa) has either filed the complaint or made a motion in response to a notice [published by a complainant]; (bb) in the determination of the court, has the largest financial interest in the relief sought by the class; and (cc) otherwise satisfies the requirements of Rule 23 of the Federal Rules of Civil Procedure.

15 U.S.C. § 78u-4(a)(3)(B)(iii)(I); *see also Levine v. AtriCure, Inc.*, 508 F. Supp. 2d 268, 276-77 (S.D.N.Y. 2007) (same); *Baughman*, 250 F.R.D. at 125 (describing the PSLRA's process for determining the "most adequate plaintiff"); *Tronox*, 262 F.R.D. at 343-44 (same).

Once it is determined who among the movants seeking appointment as lead plaintiff is the presumptive lead plaintiff, the presumption can be rebutted only upon proof by a class member that the presumptive lead plaintiff: "(aa) will not fairly and adequately protect the interests of the class; or (bb) is subject to unique defenses that render such plaintiff incapable of adequately representing the class." 15 U.S.C. § 78u-4(a)(3)(B)(iii)(II); *see also Baughman,* 250 F.R.D. at 125.

B. Under The PSLRA, Virk Should be Appointed Lead Plaintiff

As discussed below, Virk should be appointed Lead Plaintiff because all of the PSLRA's procedural hurdles have been satisfied, Virk holds the largest financial interest of any movant, and Virk otherwise satisfies Rule 23's typicality and adequacy requirements.

1. Virk Filed a Timely Motion

Pursuant to the PSLRA, the first plaintiff to file a complaint in the actions was required to publish notice within twenty (20) days of its filing. 15 U.S.C. § 78u-4(a)(3)(A)(i). Counsel for first-filed plaintiff Daniel Yannes published notice of the lead plaintiff deadline via *Business Wire* on April 29, 2020. *See* Ex. A; *Pirelli Armstrong Tire Corp. Retiree Med. Benefits Tr. v. LaBranche & Co.*, 229 F.R.D. 395, 403 (S.D.N.Y. 2004) ("*Business Wire* is a suitable vehicle for meeting the statutory requirement that notice be published."). Consequently, any member of the proposed Class was required to seek to be appointed lead plaintiff within 60 days after

publication of the notice, *i.e.*, on or before June 29, 2020.[3] *See* 15 U.S.C. § 78u-4(a)(3)(A)(i). Thus, Virk's motion is timely filed.

Additionally, pursuant to Section 21D(a)(2) of the Exchange Act, Virk timely signed and submitted the requisite certification, identifying all of his relevant SCWorx trades during the Class Period, and detailing Virk's suitability to serve as Lead Plaintiff in this case. *See* Ex. B. The PSLRA's procedural requirements have therefore been met**.**

2. Virk Has the Largest Financial Interest in the Relief Sought by the Class

The PSLRA instructs the Court to adopt a rebuttable presumption that the "most adequate plaintiff" for lead plaintiff purposes is the person with the largest financial interest in the relief sought by the class. *See* 15 U.S.C. § 78u-4 (a)(3)(B)(iii)(I)(bb).

Although the PSLRA is silent as to any definitive methodology courts are to use in determining which movant has the largest financial interest in the relief sought, courts in this Circuit have typically looked to the following four factors in the inquiry: (1) the number of shares purchased by the movant during the Class Period; (2) the number of net shares purchased by the movant during the Class Period; (3) the total net funds expended by the movant during the Class Period; and (4) the approximate losses suffered by the movant. *See Topping v. Deloitte Touche Tohmatsu CPA, Ltd.*, 95 F. Supp. 3d 607, 616 (S.D.N.Y. 2015); *In re Olsten Corp. Sec. Litig.*, 3 F. Supp. 2d 286, 295 (E.D.N.Y. 1998); *Baughman*, 250 F.R.D. at 125; *In re GE*, 2009 WL 2259502, at *4. Courts have placed the most emphasis on the last of the four factors: the

[3] Given that the 60th day fell on Sunday, June 28, 2020, Fed. R. Civ. P. 6(a)(1)(C) extends the deadline to Monday, June 29, 2020.

approximate loss suffered by the movant. *See, e.g.*, *Topping*, 95 F. Supp. 3d at 616; *Baughman*, 250 F.R.D. at 125; *In re GE*, 2009 WL 2259502, at *5.

Overall, during the Class Period, Virk purchased 10,000 net and 10,000 total SCWorx shares, expended $123,106.64 in net funds and suffered losses of $123,106.64 as a result of his retention of illiquid and, therefore, worthless shares. *See* Ex. C; Factual Background, *supra* (noting that trading in SCWorx shares is halted); *In re Forcefield Energy Inc. Sec. Litig.*, No. 15 CIV. 3020 NRB, 2015 WL 4476345, at *2 n.11 (S.D.N.Y. July 22, 2015) (where trading in shares was halted, the court "assume[d] for purposes of [its] decision that any unsold ForceField shares [had] zero value"). Virk is presently unaware of any other movant with a larger financial interest in the outcome of this litigation.

3. Virk Meets Rule 23's Typicality and Adequacy Requirements

The PSLRA also requires that, in addition to possessing the largest financial interest in the outcome of the litigation, the lead plaintiff must satisfy the requirements of Rule 23 of the Federal Rules of Civil Procedure. *See* 15 U.S.C. § 78u-4(a)(3)(B). When assessing a potential lead plaintiff only Rule 23(a)'s typicality and adequacy requirements are relevant. *See, e.g.*, *Blackmoss Inv., Inc. v. ACA Capital Holdings, Inc.*, 252 F.R.D. 188, 191 (S.D.N.Y. 2008) ("At this stage of the litigation, the moving plaintiff must only make a preliminary showing that the adequacy and typicality requirements have been met."); *Pompano Beach Police & Firefighters' Ret. Sys. v. Comtech Telecomms. Corp.,* No. CV 09-3007 (SJF) (AKT), 2010 WL 3909331, at *2 (E.D.N.Y. Sept. 29, 2010).

Typicality is established where each class member's claim "arises from the same course of events, and each class member makes similar legal arguments to prove the defendant's liability." *Blackmoss*, 252 F.R.D. at 191 (quoting *In re Drexel Burnham Lambert Grp., Inc.*, 960 F.2d 285, 291 (2d Cir. 1992)). "However, a lead plaintiff's claims need not be identical to the

claims of the class in order to satisfy the preliminary showing of typicality." *Topping*, 95 F. Supp. 3d at 623.

Virk's claims are clearly typical of the Class's claims. Virk purchased SCWorx shares during the Class Period, suffered damages as a result of the Company's false and misleading statements, and therefore can assert the Class's claims against SCWorx and certain of its officers under the federal securities laws. Because the factual and legal bases of Virk's claims are similar to those of the Class's claims, if not identical, Virk necessarily satisfies the typicality requirement. *See Quan v. Advanced Battery Techs., Inc.*, No. 11 Civ. 2279 (CM), 2011 WL 4343802, at *3 (S.D.N.Y. Sept. 9, 2011) (finding movant typical where "he suffered losses as a result of [the company's] false and misleading statements during the same period as other movants, plaintiffs, and potential class members, and [] he is alleging violations of the same provisions of the [Exchange Act], against the same defendants as the other parties").

With respect to adequacy, Rule 23(a)(4) requires that the representative party will "fairly and adequately protect the interests of the class." Adequate representation will be found if able and experienced counsel represent the proposed representative, and the proposed representative has no fundamental conflicts of interest with the interests of the class as a whole. *See Pipefitters Local No. 636 Defined Benefit Plan v. Bank of Am. Corp.*, 275 F.R.D. 187, 190 (S.D.N.Y. 2011) ("In considering the adequacy of a proposed lead plaintiff, a court must consider: (1) whether the lead plaintiff's claims conflict with those of the class; and (2) whether class counsel is qualified, experienced, and generally able to conduct the litigation."); *In re GE*, 2009 WL 2259502, at *5 (Plaintiff "satisfies the adequacy requirement because its interests are aligned with those of the putative class, and it has retained competent and experienced counsel").

As evidenced by the representations in his certification, *see* Ex. B, Virk's interests are perfectly aligned with—and by no means antagonistic to—the Class. *See Kokkinis v. Aegean Marine Petroleum Network, Inc.*, No. 11 Civ. 0917 (BSJ) (JCF), 2011 WL 2078010, at *2 (S.D.N.Y. May 19, 2011) (movant's certification evidenced adequacy to serve as lead plaintiff); *see also Blackmoss*, 252 F.R.D. at 191 (same).

Virk has also selected and retained highly competent counsel to litigate the claims on behalf of himself and the Class. As explained below in Section III, the Faruqi Firm is highly regarded for its experience, knowledge, and ability to conduct complex securities class action litigation. *See* Ex. D. Consequently, Virk is more than adequate to represent the Class and has every incentive to maximize the Class's recovery.

In light of the foregoing, Virk respectfully submits that he is the presumptive Lead Plaintiff and should be appointed Lead Plaintiff for the consolidated Actions.

III. VIRK'S SELECTION OF THE FARUQI FIRM AS LEAD COUNSEL SHOULD BE APPROVED

Pursuant to 15 U.S.C. § 78u-4(a)(3)(B)(v), the Lead Plaintiff is entitled to select and retain Lead Counsel for the Class, subject to the Court's approval. Virk has selected the Faruqi Firm to be Lead Counsel for the Class. The Faruqi Firm is a minority-owned and woman-owned law firm, and, as reflected in the firm's resume, possesses extensive experience successfully litigating complex class actions on behalf of plaintiffs, including securities class actions. *See* Ex. D; *see also In re China Mobile Games & Entertainment Group, Ltd. Sec. Litig.*, 68 F. Supp. 3d 390, 401 (S.D.N.Y. 2014) (appointing the Faruqi Firm as sole lead counsel and noting: "Faruqi & Faruqi has extensive experience in the area of securities litigation and class actions. The firm's resume indicates that it has litigated more than ten prominent securities class actions since its founding in 1995. Faruqi & Faruqi achieved successful outcomes in many of these cases.").

For example, the Faruqi Firm has previously obtained significant recoveries for injured investors. *See, e.g.*, *Larkin v. GoPro, Inc.*, No. 4:16-cv-06654-CW (N.D. Cal. 2019) (where, as sole lead counsel, the firm obtained final approval of $6.75 million settlement); *In re Avalanche Biotechnologies Sec. Litig.*, No. 3:15-cv-03185-JD (N.D. Cal. 2017) (appointed as sole lead counsel in the federal action, and together with lead counsel in a parallel state action, obtained final approval of a $13 million global settlement); *Rihn v. Acadia Pharms., Inc.*, No. 3:15-cv-00575-BTM-DHB (S.D. Cal. 2017) (where, as sole lead counsel, the Faruqi Firm obtained final approval of a $2.925 million settlement); *In re Geron Corp*., *Sec. Litig.*, No. 3:14-CV-01424 (CRB) (N.D. Cal. 2017) (where, as sole lead counsel, the Faruqi Firm obtained final approval of a $6.25 million settlement); *In re Dynavax Techs. Corp. Sec. Litig*., No. 12-CV-02796 (CRB) (N.D. Cal. 2016) (where, as sole lead counsel, the Faruqi Firm obtained final approval of a $4.5 million settlement); *McIntyre v. Chelsea Therapeutics Int'l, LTD*, No. 12-CV-213-MOC-DCK (W.D.N.C. 2016) (where, as sole lead counsel, the Faruqi Firm secured the reversal of the district court's dismissal of the action at the Fourth Circuit, *see Zak v. Chelsea Therapeutics Int'l, Ltd*., 780 F.3d 597 (4th Cir. 2015), and obtained final approval of a $5.5 million settlement); *In re L&L Energy, Inc. Sec. Litig.,* No. 13-CV-06704 (RA) (S.D.N.Y. 2015) (where the Faruqi Firm as co-lead counsel, secured a $3.5 million settlement); *In re Ebix*, *Inc*. *Sec. Litig*., No. 1:11-CV-02400-RWS (N.D. Ga. 2014) (where the Faruqi Firm, as sole lead counsel for the class, secured a $6.5 million settlement); *Shapiro v. Matrixx Initiatives, Inc*., No. CV-09-1479-PHX-ROS (D. Ariz. 2013) (where the Faruqi Firm, as co-lead counsel for the class, secured a $4.5 million settlement); *In re United Health Grp. Inc. Deriv. Litig*., Case No. 27 CV 06-8065 (Minn. 4th Jud. Dt. 2009) (where the Faruqi Firm, as co-lead counsel, obtained a recovery of more than $930 million for the benefit of the Company and negotiated important corporate governance reforms

designed to make the nominal defendant corporation a model of responsibility and transparency); *In re Tellium Inc. Sec. Litig.*, No. 02 CV-5878 (FLW) (D.N.J. 2006) (where the Faruqi Firm, as co-lead counsel, recovered a $5.5 million settlement); *In re Olsten Corp. Sec. Litig.*, No. 97-CV-5056 (E.D.N.Y. 2005) (where the Faruqi Firm, as co-lead counsel, recovered $24.1 million for class members); *Ruskin v. TIG Holdings, Inc.*, No. 98-CV-1068 (S.D.N.Y. 2002) (where the Faruqi Firm, as co-lead counsel, recovered $3 million for the class); and *In re Purchase Pro Inc. Sec. Litig*., No. CV-C-01-0483-JLQ (D. Nev. 2001) (where the Faruqi Firm, as co-lead counsel for the class, secured a $24.2 million settlement).

The Faruqi Firm is also currently litigating several prominent securities class actions. *See, e.g.*, *Attigui v. Tahoe Resources, Inc.*, No. 2:18-cv-01868-RFB-NJK (D. Nev.) (appointed as sole lead counsel for the class); *DeSmet v. Intercept Pharmaceuticals Inc.*, No. 1:17-cv-07371-LAK (S.D.N.Y.) (appointed as sole lead counsel for the class); *Khanna v. Ohr Pharmaceutical Inc.*, No. 1:18-cv-01284-LAP (S.D.N.Y.) (appointed as sole lead counsel for the class); *Lee v. Synergy Pharmaceuticals, Inc.*, No. 1:18-cv-00873-AMD-VMS (E.D.N.Y.) (appointed as co-lead counsel for the class); *Smith v. CV Sciences, Inc.*, No. 2:18-cv-01602-JAD-PAL (D. Nev.) (appointed as sole lead counsel for the class); *Sharma v. Amarin Corp., plc*, No. 3:19-cv-06601-BRM-TJB (D.N.J.) (appointed as co-lead counsel for the class); *Miranda v. Ideanomics, Inc.*, No. 1:19-cv-06741-GBD (S.D.N.Y.) (appointed as sole lead counsel for the class); *Malhotra v. Sonim Technologies, Inc.*, No. 3:19-cv-06416-MMC (N.D. Cal.) (appointed as sole lead counsel for the class).

CONCLUSION

For the foregoing reasons, Virk respectfully requests that the Court (1) consolidate the above-captioned actions; (2) appoint Virk as Lead Plaintiff; (3) approve his selection of the

Faruqi Firm as Lead Counsel for the putative Class; and (4) grant such other relief as the Court may deem just and proper.

Dated: June 29, 2020

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE WITH WORD COUNT LIMIT

Pursuant to Section II.D. of the Individual Practices of Judge John G. Koeltl, I hereby certify that the foregoing document does not exceed 7,000 words. The Memorandum, exclusive of the cover page, table of contents, table of authorities, and signature block, contains 3,933 words.

/s/ Richard W. Gonnello
Richard W. Gonnello