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UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

TIANDONG TANG, Individually and on Behalf of All Others Similarly Situated, Plaintiff, v. EASTMAN KODAK COMPANY, JAMES V. CONTINENZA, AND DAVID BULLWINKLE, Defendants.	Case No. 3:20-cv-10462-FLW-ZNQ MEMORANDUM OF LAW IN SUPPORT OF MOTION OF THE KODAK INVESTOR GROUP FOR APPOINTMENT AS LEAD PLAINTIFF AND APPROVAL OF LEAD PLAINTIFF'S SELECTION OF LEAD COUNSEL

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Movants Kevin Harte and Alfred Fenelle (collectively, the "Kodak Investor Group") respectfully submit this Memorandum of Law in support of its motion, pursuant to Section 21D(a)(3) of the Securities Exchange Act of 1934 (the "Exchange Act"), 15 U.S.C. § 78u-4(a)(3), as amended by the Private Securities Litigation Reform Act of 1995 (the "PSLRA"), for an Order: (1) appointing the Kodak Investor Group as Lead Plaintiff on behalf of a class consisting of all persons and entities other than the above-captioned defendants ("Defendants") who purchased or otherwise acquired Eastman Kodak Company ("Kodak" or the "Company") securities in the United States ("U.S.") between July 27, 2020 and August 11, 2020,[1] both dates inclusive (the "Class Period") (the "Class"); and (2) approving proposed Lead Plaintiff's selection of Pomerantz LLP ("Pomerantz") and Bernstein Liebhard LLP ("Bernstein Liebhard") as Co-Lead Counsel for the Class.

[1] The complaint filed in the above-captioned action (the "Action"), filed in this Court on August 13, 2020, alleges a class period that only includes purchasers or acquirers of Kodak securities between July 27, 2020 and August 7, 2020, inclusive. On August 25, 2020, a related action styled *McAdams et al v. Eastman Kodak Company et al.*, No. 1:20-cv-06861 (the "McAdams Action") was filed in the Southern District of New York, alleging substantially the same wrongdoing against overlapping defendants, and with a larger class period including all purchasers or acquirers of Kodak securities between July 27, 2020 through August 11, 2020, inclusive. Therefore, to avoid excluding any potential class members, this motion has adopted the larger class period alleged in the McAdams Action.

PRELIMINARY STATEMENT

The initial complaint in the "Action" (the "Complaint") (Dkt. No. 1) alleges a significant fraud perpetrated on Kodak's investors during the Class Period. *See generally* Complaint. The ability of Kodak investors to recover their losses arising from the alleged fraud rests upon the Court's appointment of the most qualified Lead Plaintiff and Lead Counsel pursuant to the procedure set forth in the PSLRA. The Kodak Investor Group is the best choice to serve as Lead Plaintiff. Its chosen counsel, Pomerantz and Bernstein Liebhard, will devote the resources and expertise necessary to zealously prosecute this litigation, and are thus the best candidates to serve as Co-Lead Counsel.

During the Class Period, Defendants allegedly defrauded investors, in violation of Sections 10(b) and 20(a) of the Exchange Act (15 U.S.C. §§ 78j(b), 78t(a)), and U.S. Securities and Exchange Commission ("SEC") Rule 10b-5 promulgated thereunder (17 C.F.R. § 240.10b-5), by misrepresenting Kodak's business and operations. Kodak investors, including the Kodak Investor Group, incurred significant losses resulting from the revelation of this fraud. *See id.*

Pursuant to the PSLRA, the Court is to appoint as Lead Plaintiff the movant that possesses the largest financial interest in the outcome of the Action and that satisfies the requirements of Federal Rule of Civil Procedure 23 ("Rule 23"). 15 U.S.C. § 78u-4(a)(3)(B)(iii)(I). The Kodak Investor Group: (i) purchased 67,000

shares of Kodak securities during the Class Period; (ii) expended $1,672,450 on its Class Period purchases of Kodak stock; (iii) retained its shares through the corrective disclosures; and (iv) incurred losses of approximately $624,122 in connection with its Class Period purchases of Kodak stock. *See* Declaration of Gustavo F. Bruckner ("Bruckner Decl."), Ex. A. Accordingly, the Kodak Investor Group believes that it has the largest financial interest in the relief sought in this Action within the meaning of the PSLRA.

Beyond its considerable financial interest, the Kodak Investor Group also meets the applicable requirements of Rule 23 because its claims are typical of absent class members and it will fairly and adequately represent the interests of the Class.

To fulfill its responsibilities as Lead Plaintiff and vigorously prosecute this Action on behalf of the Class, the Kodak Investor Group has selected Pomerantz and Bernstein Liebhard as Co-Lead Counsel for the Class. Pomerantz is a nationally-recognized securities class action firm that has recovered billions of dollars on behalf of defrauded investors, and recently secured a recovery of $3 billion on behalf of investors in the securities of Petrobras, the fifth largest class action settlement ever achieved in the U.S. Based in New York, Pomerantz has offices in Chicago, Los Angeles, and Paris, France. Similarly, Bernstein Liebhard has actively litigated securities class actions since its founding and has recovered millions of dollars for investors and its clients.

Accordingly, based on its significant financial interest, and otherwise satisfying the adequacy and typicality requirements of Rule 23, the Kodak Investor Group respectfully requests that the Court enter an order appointing it as Lead Plaintiff and approving its selection of Co-Lead Counsel.

STATEMENT OF FACTS

As the Complaint alleges, Kodak is a technology company that provides hardware, software, consumables, and services to customers in commercial print, packaging, publishing, manufacturing, and entertainment. On July 27, 2020, Kodak issued a statement to media outlets based in Rochester, New York, where it is headquartered, on the imminent public announcement of a "new manufacturing initiative" involving the U.S. International Development Finance Corporation ("DFC") and the response to COVID-19. Following media publication of Kodak's initial statement about the deal, the Company claimed this information was released inadvertently.

On the same day, to further a scheme to profit from the use of material non-public information about the deal before its official disclosure, Kodak granted its CEO and Executive Chairman, Defendant Jim Continenza, 1.75 million stock options at a conversion price of between $3.03 and $12 per share. Additionally, the Company awarded 45,000 stock options each to its CFO, Defendant David Bullwinkle, Vice President Randy Vandagriff, and General Counsel Roger Byrd.

On the day these options were awarded, Kodak's stock price closed at $2.62 per share, well below the lowest conversion price, meaning these options were "out of the money" when they were awarded. That would immediately change to an astronomical degree the very next day.

On July 28, 2020, the price of Kodak's shares jumped 200%, from $2.62 per share on July 27, 2020 to $7.94 per share, following news that the Company had won a $765 million government loan from the DFC under the Defense Production Act ("DPA") to produce pharmaceutical materials, including ingredients for COVID-19 drugs. Shares continued to surge by over 300% the next day to close at $33.20 per share on July 29, 2020. This massive stock price increase allowed Defendant Continenza and other Kodak insiders to enrich themselves spectacularly from the compensation scheme, as their stock options were now very much "in the money." Continenza alone saw the value of his options go from zero to $50 million in just 48 hours.

In the days following the deal announcement, details began to emerge revealing the Company's further deception surrounding the compensation scheme. On August 1, 2020, a Reuters article reported new details of the "unusual" 1.75 million option grant to Defendant Continenza. The article emphasized that the options award "occurred because of an understanding" between Continenza and

Kodak's Board of Directors "that had previously neither been listed in his employment contract nor made public."

On this news, Kodak's shares fell $6.91 per share the next trading day, or 32%, from $21.85 per share on July 31, 2020, to $14.94 per share on August 3, 2020.

On August 4, 2020, before the market opened, an article published on CQ Roll Call reported that United States Senator Elizabeth Warren submitted a letter to the SEC requesting an investigation of the deal and Kodak for apparent violations of the securities laws and SEC regulations. The letter noted that on June 23, 2020, Defendant Continenza purchased 46,737 shares and board member Philippe Katz ("Katz") purchased 5,000 shares—stock trades that "raise questions about several different insider trading laws." According to the letter, each purchase "made while the company was involved in secret negotiations with the government over a lucrative contract raises questions about whether these executives potentially made investment decisions based on material, non-public information derived from their positions," in violation of the Securities Exchange Act of 1934.

Additionally, the letter pointed to the Company's initial July 27, 2020 announcement of the deal to some media outlets, followed by the subsequent frenzy in trading of its shares—a one-day volume of over 1.6 million shares, compared to volume of only 75,000 shares on the previous trading day—as cause for

investigation into "how Kodak handled what appears to be 'nonintentional disclosure of material nonpublic information,'" in possible violation of Rule 100 of SEC Regulation FD.

Also on August 4, 2020, according to an article published in the Wall Street Journal, the SEC commenced an investigation into "how Kodak controlled disclosure of the loan, word of which began to emerge on July 27, 2020." The article stated that "[t]he SEC is also expected to examine the stock options granted to executives on July 27," which "instantly became profitable" when Kodak's government loan was announced.

Additionally, on August 4, 2020, Kodak Board member George Karfunkel ("Karfunkel") and his wife Renee Karfunkel disclosed to the SEC a July 29, 2020 donation of 3 million of their 6.3 million Kodak shares to a religious institution in Brooklyn, New York, that he actually founded and controlled, a gift valued at $116.3 million. Notably, this "charitable" donation took place one day after the DPA loan announcement, the day Kodak's stock peaked, and was provided to a congregation that had only been incorporated since 2018, used a Brooklyn accountant's office as its mailing address, had no website, and for which Karfunkel himself served as the President and Chief Financial Officer—one of only three officers of the purported charity. One of the other officers was a former Karfunkel company executive who was also an accountant for a Karfunkel family foundation.

The Wall Street Journal later reported that, while the organization described itself as an Orthodox Jewish synagogue, in fact it only appeared to have "a small space attached to a three-story apartment building on a quiet side street." The article also reported that the donation represented the single largest gift recorded to a religious group, and would generate tens of millions of dollars in income-tax benefits for Karfunkel. A Mother Jones article found that the Karfunkels would be able to "pocket a deduction between $52.5 million and $180 million." Karfunkel's gift is now the subject of an internal review by the Company's outside counsel.

As a result of the revelations on August 4, 2020, the Company's stock price dropped another $0.54, or 4%, from $14.94 per share on August 3, 2020, to $14.40 per share on August 4, 2020.

On August 5, 2020, several Congressional committees sent a joint letter to Defendant Continenza seeking documents about the loan, insider trading, and stock options for their review of "DFC's decision to award this loan to Kodak despite your company's lack of pharmaceutical experience and the windfall gained by you and other company executives as a result of this loan" which raised "questions that must be thoroughly examined." The committees also sent a document request to the DFC's Chief Executive Officer on the same day, inquiring about the Kodak loan, which the letter noted was "an organization that was on the brink of failure

in 2012 and was unsuccessful in its previous foray into pharmaceutical manufacturing."

In response to increasing public awareness and Congressional and regulatory scrutiny of Kodak's fraudulent scheme, the DFC paused the deal. On August 7, 2020, after the market closed, the DFC announced, "On July 28, we signed a Letter of Interest with Eastman Kodak. Recent allegations of wrongdoing raise serious concerns. We will not proceed any further unless these allegations are cleared."

On this news, the Company's stock price declined $4.15, or 28%, from $14.88 per share on August 7, 2020, to $10.73 per share on August 10, 2020.

Then, on August 11, 2020, after the market closed, in connection with the Company's release of its financial results for the second quarter, Kodak held a conference call during which Defendant Continenza repeatedly referred to the Loan as a "potential loan", in stark contrast to his statements on July 29, 2020 that the Loan was effectively a done deal.[2] Additionally, Defendant Continenza said that "we … support the DFC's decision to wait clarification before moving forward with the loan process."[3] Following this news, Kodak's shares declined farther by an additional 2.9% to close at $9.72 per share on August 12, 2020.[4]

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[2] *See* Complaint filed in McAdams Action (Dkt. No. 1), ⁋ 21.
[3] *Id.*
[4] *Id.*

As a result of Defendants' wrongful acts and omissions, and the precipitous decline in the market value of the Company's common stock, Plaintiff and the other Class members have suffered significant losses and damages.

ARGUMENT

A. THE KODAK INVESTOR GROUP SHOULD BE APPOINTED LEAD PLAINTIFF

The Kodak Investor Group should be appointed Lead Plaintiff because, to the best of its counsel's knowledge, it has the largest financial interest in the Action and otherwise strongly satisfies the requirements of Rule 23. The PSLRA directs courts to consider any motion to serve as Lead Plaintiff filed by class members in response to a published notice of the class action and to do so by the later of (i) 90 days after the date of publication, or (ii) as soon as practicable after the Court decides any pending motion to consolidate. 15 U.S.C. § 78u-4(a)(3)(B)(i) & (ii).

Further, under 15 U.S.C. § 78u-4(a)(3)(B)(iii)(I), the Court is directed to consider all motions by plaintiffs or purported class members to appoint Lead Plaintiff filed in response to any such notice. Under this section, the Court "shall" appoint "the presumptively most adequate plaintiff" to serve as Lead Plaintiff and shall presume that plaintiff is the person or group of persons, that:

> (aa) has either filed the complaint or made a motion in response to a notice . . .;
>
> (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).

As set forth below, the Kodak Investor Group satisfies all three of these criteria and thus is entitled to the presumption that it is the most adequate plaintiff of the Class and, therefore, should be appointed Lead Plaintiff for the Class.

1. The Kodak Investor Group Is Willing to Serve as a Class Representative

On August 14, 2020, counsel for the plaintiff in the Action caused a notice to be published over *Globe Newswire* pursuant to Section 21D(a)(3)(A)(i) of the PSLRA (the "Notice"), which announced that a securities class action had been filed against the Defendants and advised investors of Kodak securities that they had until October 13, 2020—*i.e.*, 60 days from the date of the Notice's publication—to file a motion to be appointed as Lead Plaintiff. *See* Bruckner Decl., Ex. B.

The Kodak Investor Group has filed the instant motion pursuant to the Notice and has attached Certifications signed by its members attesting that it is willing to serve as representatives for the Class and to provide testimony at deposition and trial, if necessary. *See* Bruckner Decl., Ex. C. Accordingly, the Kodak Investor Group satisfies the first requirement to serve as Lead Plaintiff of the Class.

2. The Kodak Investor Group Has the "Largest Financial Interest"

The PSLRA requires a court to adopt a rebuttable presumption that "the most adequate plaintiff . . . is the person or group of persons that . . . has the largest financial interest in the relief sought by the class." 15 U.S.C. § 78u-4(a)(3)(B)(iii). To the best of its counsel's knowledge, the Kodak Investor Group has the largest financial interest of any of the Lead Plaintiff movants based on the four factors articulated in the seminal case *Lax v. First Merch. Acceptance Corp.*, 1997 U.S. Dist. LEXIS 11866, at *7-*8 (N.D. Ill. Aug. 6, 1997) (financial interest may be determined by (1) the number of shares purchased during the class period; (2) the number of net shares purchased during the class period; (3) the total net funds expended during the class period; and (4) the approximate losses suffered). The *Lax* factors have been adopted by courts nationwide, including this Judicial District. *See, e.g.*, *Rubenstahl v. Philip Morris Int'l, Inc.*, No. 17-13504 (ES) (MAH), 2019 U.S. Dist. LEXIS 23309, at *5 (D.N.J. Feb. 13, 2019) (citing *In re Cendant Corp. Litig.*, 264 F.3d 201, 262 (3d Cir. 2001)); *Smith v. Antares Pharma, Inc.*, No. 17-8945 (MAS) (DEA), 2018 U.S. Dist. LEXIS 126964, at *4-*5 (D.N.J. July 27, 2018); *Patel v. Zoompass Holdings, Inc.*, No. 17-3831 (JLL), 2017 U.S. Dist. LEXIS 153765, at *2-*3 (D.N.J. Sept. 20, 2017).

During the Class Period, The Kodak Investor Group: (i) purchased 67,000 shares of Kodak securities during the Class Period; (ii) expended $1,672,450 on its

Class Period purchases of Kodak stock; (iii) retained its shares through the corrective disclosures; and (iv) incurred losses of approximately $624,122 in connection with its Class Period purchases of Kodak stock. *See* Bruckner Decl., Ex. A. Because the Kodak Investor Group possesses the largest financial interest in the outcome of this litigation, it may be presumed to be the "most adequate" plaintiff. 15 U.S.C. § 78u-4(a)(3)(B)(iii)(I)(bb).

3. The Kodak Investor Group Otherwise Satisfies the Requirements of Rule 23 of the Federal Rules of Civil Procedure

Section 21D(a)(3)(B)(iii)(I)(cc) of the PSLRA further provides that, in addition to possessing the largest financial interest in the outcome of the litigation, Lead Plaintiff must "otherwise satisfy the requirements of Rule 23 of the Federal Rules of Civil Procedure." Rule 23(a) generally provides that a class action may proceed if the following four requirements are satisfied:

> (1) the class is so numerous that joinder of all members is impracticable, (2) there are questions of law or fact common to the class, (3) the claims or defenses of the representative parties are typical of the claims or defenses of the class, and (4) the representative parties will fairly and adequately protect the interests of the class.

In determining that Lead Plaintiff satisfies the requirements of Rule 23, "[a] wide-ranging analysis under Rule 23 is not appropriate [at this stage of the litigation] and should be left for consideration of a motion for class certification." *In re Lucent Techs. Sec. Litig.*, 194 F.R.D. 137, 149 (D.N.J. 2000) (quoting *Fischler v. Amsouth*

Bancorp., No. 96-1567-CIV-T-17A, 1997 U.S. Dist. LEXIS 2875, at *7-*8 (M.D. Fla. Feb. 6, 1997)); *see also Sklar v. Amarin Corp. PLC*, Nos. 13-cv-06663 (FLW) (TJB), 2014 U.S. Dist. LEXIS 103051, at *20 (D.N.J. July 29, 2014) ("only a preliminary showing of both typicality and adequacy is necessary"). Moreover, "[t]he Rule 23 inquiry focuses [only] on the 'typicality' and 'adequacy' requirements at this stage of the litigation." *Id.*

The typicality requirement of Rule 23(a)(3) is satisfied where "the named plaintiffs' claims are typical, in common-sense terms, of the class, thus suggesting that the incentives of the plaintiffs are aligned with those of the class." *Beck v. Maximus, Inc.*, 457 F.3d 291, 295-96 (3d Cir. 2006) (quoting *Baby Neal v. Casey*, 43 F.3d 48, 55 (3d Cir. 1994) (noting that "factual differences will not render a claim atypical if the claim arises from the same event or practice or course of conduct that gives rise to the claims of the class members, and if it is based on the same legal theory")).

The Kodak Investor Group's claims are typical of those of the Class. The Kodak Investor Group alleges, as do all Class members, that Defendants violated the Exchange Act by making what they knew or should have known were false or misleading statements of material facts concerning Kodak, or omitted to state material facts necessary to make the statements they did make not misleading. The Kodak Investor Group, as do all Class members, alleges damages based on Class

Period purchases and/or acquisitions in Kodak securities at prices artificially inflated by Defendants' misrepresentations or omissions, with such damages realized upon the disclosure of those misrepresentations and/or omissions. These shared claims, which are based on the same legal theory and arise from the same events and course of conduct as the Class claims, satisfy the typicality requirement of Rule 23(a)(3).

"In making the *prima facie* determination of adequacy, a court should consider whether the movant 'has the ability and incentive to represent the claims of the class vigorously, [whether the movant] has obtained adequate counsel, and [whether] there is [a] conflict between [the movant's] claims and those asserted on behalf of the class.'" *In re Vonage Initial Pub. Offering Secs. Litig.*, No. 07-177 (FLW), 2007 U.S. Dist. LEXIS 66258, at *19 (D.N.J. Sept. 6, 2007) (quoting *Cendant*, 264 F.3d at 265); *see also Beck*, 457 F.3d at 296 (emphasizing that the adequacy inquiry "'serves to uncover conflicts of interest between named parties and the class they seek to represent'" (quoting *Amchem Prods., Inc. v. Windsor*, 521 U.S. 591, 625 (1997))).

The Kodak Investor Group is an adequate representative for the Class. As set forth in greater detail below, the Kodak Investor Group has retained counsel highly experienced in vigorously and efficiently prosecuting securities class actions such as this action, and submits its choice of Pomerantz and Bernstein Liebhard to the Court for approval pursuant to 15 U.S.C. § 78u-4(a)(3)(B)(v). There is no evidence

of antagonism or conflict between the Kodak Investor Group's interests and the interests of the Class. The Kodak Investor Group has submitted Certifications signed by its members declaring its commitment to protecting the interests of the Class (*see* Bruckner Decl., Ex. C), and the Kodak Investor Group's significant financial interest in this litigation demonstrates that it has a sufficient interest in the outcome of this litigation to ensure vigorous adequacy.

Additionally, the Kodak Investor Group is an appropriate Lead Plaintiff group. The appointment of a group of class members as Lead Plaintiff is expressly permitted by the PSLRA, 15 U.S.C. § 78u-4(a)(3)(B)(iii)(I), and the Third Circuit, as well as district courts within the Third Circuit—including this Court—which have repeatedly recognized the propriety of appointing such groups that are capable of "fairly and adequately protect[ing] the interests of the class." *In re Cendant*, 264 F.3d at 266 ("The statute contains no requirement mandating that the members of a proper group be 'related' in some manner; it requires only that any such group 'fairly and adequately protect the interests of the class.'"); *In re Enzymotec Ltd. Sec. Litig.*, No. 14-5556, 2015 U.S. Dist. LEXIS 25720 (D.N.J. Mar. 3, 2015) (Arleo, J.) (appointing as Lead Plaintiff a group of three investors); *OFI Risk Arbitrages v. Cooper Tire & Rubber Co.*, 63 F. Supp. 3d 394, 411 (D. Del. 2014) (appointing as Lead Plaintiff a group of investors).

Further demonstrating its adequacy, the Kodak Investor Group has submitted a Joint Declaration executed by its members, attesting to, *inter alia*, their education history, occupation, and investment experience, as well as to their understanding of the strength of this case, the responsibilities and duties of serving as a lead plaintiff, their shared desire to obtain the best result for the Class, and the steps that they will take to supervise this litigation. *See* Bruckner Decl., Ex. D.

4. The Kodak Investor Group Will Fairly and Adequately Represent the Interests of the Class and Is Not Subject to Unique Defenses

The presumption in favor of appointing the Kodak Investor Group as Lead Plaintiff may be rebutted only upon proof "by a member of the purported plaintiff class" that the presumptively most adequate plaintiff:

> (aa) will not fairly and adequately protect the interest 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).

The ability and desire of the Kodak Investor Group to fairly and adequately represent the Class has been discussed above. The Kodak Investor Group is not aware of any unique defenses Defendants could raise that would render it inadequate to represent the Class. Accordingly, the Kodak Investor Group should be appointed Lead Plaintiff for the Class.

B. LEAD PLAINTIFF'S SELECTION OF COUNSEL SHOULD BE APPROVED

The PSLRA vests authority in the Lead Plaintiff to select and retain Lead Counsel, subject to Court approval. *See* 15 U.S.C. § 78u-4(a)(3)(B)(v); *In re Molson Coors Brewing Co. Sec. Litig.*, 233 F.R.D. 147, 150 (D. Del. 2005) ("Once the lead plaintiff is chosen, that party is primarily responsible for selecting lead counsel."). The Court should not interfere with Lead Plaintiff's selection unless it is necessary to do so to "protect the interests of the class." 15 U.S.C. § 78u-4(a)(3)(B)(iii)(II)(aa).

Here, the Kodak Investor Group has selected Pomerantz and Bernstein Liebhard as Co-Lead Counsel for the Class. Pomerantz is a premier firm, highly experienced in the areas of securities litigation and class action lawsuits, which has successfully prosecuted numerous such actions on behalf of investors over its 80-plus year history, as detailed in its firm resume. *See* Bruckner Decl., Ex. E. Pomerantz is based in New York, with offices in Chicago, Los Angeles, and Paris, France. As Lead Counsel in *In re Petrobras Securities Litigation*, No. 14-cv-09662 (S.D.N.Y.), Pomerantz recently secured a recovery of $3 billion on behalf of Petrobras investors, the largest settlement ever in a class action involving a foreign issuer and the fifth largest class action settlement ever achieved in the U.S. As Lead Counsel in *In re Yahoo! Inc. Securities Litigation*, No. 17-cv-00373 (N.D. Cal.), Pomerantz secured a recovery of $80 million on behalf of Yahoo! investors, the first

substantial shareholder recovery in a securities fraud class action related to a cybersecurity breach.

Similarly, Bernstein Liebhard has frequently been appointed as Lead Counsel or Co-Lead Counsel in securities class action lawsuits since the passage of the PSLRA, and has appeared in major actions in numerous courts throughout the country. Some of the firm's most recent Lead Counsel appointments include *In re Hexo Corp Sec. Litig*., No. 1:19-cv-10965-NRB (S.D.N.Y.); *Stirling v. Ollie's Bargain Outlet Holdings Inc*., No. 1:19-cv-08647-JPO (S.D.N.Y.); and *In re Fiat Chrysler Automobiles N.V. Sec. Litig*., No. 1:19-cv-06770-ERK (E.D.N.Y.). *See* Bruckner Decl., Ex. F.

The Kodak Investor Group's chosen counsel have the skill, knowledge, expertise, and experience that will enable them to prosecute this Action effectively and expeditiously. Thus, the Court may be assured that by approving the Kodak Investor Group's selection of Pomerantz and Bernstein Liebhard as Co-Lead Counsel for the Class, the members of the Class will receive the best legal representation available.

CONCLUSION

For the foregoing reasons, the Kodak Investor Group respectfully requests that the Court issue an Order: (1) appointing the Kodak Investor Group as Lead Plaintiff

for the Class; and (2) approving Pomerantz and Bernstein Liebhard as Co-Lead Counsel for the Class.

Dated: October 13, 2020

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Gustavo Bruckner, hereby certify that on October 13, 2020, a true and correct copy of the foregoing was served in accordance with the Federal Rules of Civil Procedure with the Clerk of the Court using the CM/ECF system, which will send a notification of such filing to all parties with an email address of record who have appeared and consented to electronic service in this action.

Dated: October 13, 2020

/s/ Gustavo F. Bruckner
Gustavo F. Bruckner