

United States District Court
Northern District of California

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

VICTOR W. MANGINO,
Plaintiff,
v.
LUCID GROUP, INC., et al.,
Defendants.

Case No. [22-cv-02094-JD](#)

**ORDER RE CONSOLIDATION, LEAD
PLAINTIFF AND LEAD COUNSEL**

ANANT GOEL,
Plaintiff,
v.
LUCID GROUP, INC., et al.,
Defendants.

Case No. [22-cv-03176-JD](#)

I. CONSOLIDATION

These two cases -- *Mangino v. Lucid Group, Inc.*, Case No. 22-cv-02094-JD, and *Goel v. Lucid Group, Inc.*, Case No. 22-cv-03176-JD -- are shareholder class actions alleging securities fraud by Lucid Group, Inc. and its officers based on substantially similar factual allegations. The cases involve common questions of law and fact. They are related under Civil Local Rule 3-12, and are now consolidated for all purposes including trial under Federal Rule of Civil Procedure 42(a), as requested. *See* Dkt. No. 31.¹

The cases are consolidated into the lower-numbered case, No. 22-cv-02094-JD. Going forward, the case will be re-captioned *In re Lucid Group, Inc. Securities Litigation*. The *Goel* case, No. 22-cv-03176-JD, will be closed.

¹ All docket number references are to the *Mangino* docket, Case No. 22-cv-02094-JD.

1 If the parties become aware of any other potentially related or overlapping cases, they must
2 promptly file on the docket a motion to relate (Civil L.R. 3-12(b)), or a notice of pendency (Civil
3 L.R. 3-13), as appropriate.

4 **II. APPOINTMENT OF LEAD PLAINTIFF**

5 The Court has discussed in other orders the three-step process for appointing a lead
6 plaintiff under the Private Securities Litigation Reform Act (“PSLRA”), 15 U.S.C. § 78u-
7 4(a)(3)(B). *See In re Stitch Fix, Inc. Securities Litigation*, 393 F. Supp. 3d. 833 (N.D. Cal. 2019).
8 The first step is for the plaintiff in the first-filed action to “publiciz[e] the pendency of the action,
9 the claims made and the purported class period” in “a widely circulated national business-oriented
10 publication or wire service.” *In re Cavanaugh*, 306 F.3d 726, 729 (9th Cir. 2002) (citing 15
11 U.S.C. § 78u-4(a)(3)(A)). The notice must “also state that ‘any member of the purported class
12 may move the court to serve as lead plaintiff.’” *Id.* There is no dispute that this step was
13 adequately completed by plaintiff Victor W. Mangino. *See* Dkt. No. 7 (Notice of Publication).

14 In the next two steps, the Court considers “potential lead plaintiffs one at a time, starting
15 with the one who has the greatest financial interest, and continuing in descending order if and only
16 if the presumptive lead plaintiff is found inadequate or atypical.” *Cavanaugh*, 306 F.3d at 732. In
17 step two, the Court determines presumptive lead plaintiff status relying on the “presumptive lead
18 plaintiff’s complaint and sworn certification.” *Id.* at 730. In step three, the other plaintiffs have
19 “an opportunity to rebut the presumptive lead plaintiff’s showing” by “present[ing] evidence that
20 disputes the lead plaintiff’s prima facie showing of typicality and adequacy.” *Id.*

21 The process here started with seven lead plaintiff applications. Dkt. Nos. 8, 11, 14, 18, 24,
22 31, 18. But at this point, it is not disputed that institutional plaintiff Sjunde AP-Fonden (AP7)
23 possesses the largest financial interest in this litigation. Dkt. Nos. 42, 43, 44, 49, 51, 52. Nor has
24 any other plaintiff presented evidence disputing AP7’s prima facie showing of typicality and
25 adequacy. Dkt. No. 31.

26 The Court appoints Sjunde AP-Fonden as the lead plaintiff in this action.
27
28

1 **III. APPOINTMENT OF LEAD COUNSEL**

2 Under the PSLRA, the Court must also appoint lead counsel. 15 U.S.C. § 78u-
 3 4(a)(3)(B)(v) (“The most adequate plaintiff shall, subject to the approval of the court, select and
 4 retain counsel to represent the class.”). “While the appointment of counsel is made subject to the
 5 approval of the court, the Reform Act clearly leaves the choice of class counsel in the hands of the
 6 lead plaintiff.” *Cavanaugh*, 306 F.3d at 734 (citations omitted). AP7 has selected the firm of
 7 Kessler Topaz. The Court sees no reason to disagree with this selection. Kessler Topaz Meltzer
 8 & Check, LLP is appointed lead counsel for the putative class in this consolidated action.

9 **IV. CASE SCHEDULE AND NEXT STEPS**

10 As was ordered pursuant to stipulation, Dkt. No. 50, the parties are directed to meet and
 11 confer to set a schedule for lead plaintiff’s filing of a consolidated complaint and for defendants’
 12 response to the complaint. A proposed joint schedule is due by October 14, 2022.

13 For the consolidated complaint, pursuant to the PSLRA and the Federal Rules of Civil
 14 Procedure, and for the sake of clarity and efficient case management, lead plaintiff is directed to
 15 set out in chart form its securities fraud allegations under the following headings on a numbered,
 16 statement-by-statement basis: (1) the speaker(s), date(s) and medium; (2) the false and misleading
 17 statements; (3) the reasons why the statements were false and misleading when made; and (4) the
 18 facts giving rise to a strong inference of scienter. An example may be found at Dkt. No. 112 in *In*
 19 *re Stitch Fix, Inc. Securities Litigation*, Case No. 3:18-cv-06208-JD. The chart may be attached to
 20 or contained in the consolidated complaint, but in any event will be deemed to be a part of the
 21 complaint.

22 **IT IS SO ORDERED.**

23 Dated: September 30, 2022

24
 25
 26 
 27 _____
 28 JAMES DONATO
 United States District Judge