

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
CIVIL MINUTES—GENERAL

Case No. **CV 24-337-DMG (SSCx)**

Date **April 4, 2024**

Title ***Adriano Ladewig v. BioNTech SE, et al.***

Page **1 of 3**

Present: The Honorable **DOLLY M. GEE, UNITED STATES DISTRICT JUDGE**

KELLY DAVIS

Deputy Clerk

NOT REPORTED

Court Reporter

Attorneys Present for Plaintiff(s)
None Present

Attorneys Present for Defendant(s)
None Present

Proceedings: [IN CHAMBERS] ORDER GRANTING MOTION FOR APPOINTMENT OF LEAD PLAINTIFF THE DOCDEER FOUNDATION AND COUNSEL [11] AND DENYING MOTIONS FOR APPOINTMENT OF LEAD PLAINTIFFS ORANEE DANIELS AND XIA RONGPENG AS MOOT [15, 19]

Plaintiff Adriano Ladewig brings this proposed securities class action against Defendants BioNtech SE, Ugur Sahin, and Jens Holstein. On March 12, 2024, the Docdeer Foundation, Oranee Daniels, and Xia Rongpeng each separately moved to be appointed as lead plaintiff and to approve their counsel as lead counsel. Docdeer Mtn. [Doc. # 11]; Daniels Mtn. [Doc. # 15]; Rongpeng Mtn. [Doc. # 19]. Daniels and Rongpeng later filed notices of non-opposition to the Docdeer Motion. [Doc. ## 23, 25.] For the reasons discussed herein, the Court **GRANTS** the motion to appoint Docdeer as lead plaintiff and **DENIES** Daniels’ and Rongpeng’s motions as moot.

**I.
Lead Plaintiff**

In a Private Securities Litigation Reform Act (“PSLRA”) class action, the Court “shall appoint as lead plaintiff the member or members of the purported plaintiff class 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). The first step is the publication of the pendency of the action, the claims made, and the purported class period. *In re Cavanaugh*, 306 F.3d 726, 729 (9th Cir. 2002). Within 60 days of the publication of that notice, members of the proposed class may move for appointment as the lead plaintiff. *See* 15 U.S.C. § 78u-4(a)(3)(A)(i)(II).

The Court should “presume” the most adequate plaintiff is the plaintiff who meets the following criteria: (1) has either filed a complaint or moved to be named lead plaintiff, (2) has the largest financial interest in the relief sought by the class, and (3) satisfies the requirements of Federal Rule of Civil Procedure 23. *See* 15 U.S.C. § 78u-4(a)(3)(B)(iii)(I). At this stage of the

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Page 2 of 3

proceedings, the Court focuses on the Rule 23 factors of typicality and adequacy. *See In re Cavanaugh*, 306 F.3d at 730. A plaintiff seeking appointment as lead plaintiff need only make a preliminary showing of compliance. *See Yousefi v. Lockheed Martin Corp.*, 70 F. Supp. 2d 1061, 1071 (C.D. Cal. 1999). A finding of adequacy under Rule 23 at this stage does not preclude any party from contesting the ultimate class certification. *Id.*

On January 12, 2024, counsel in this action caused a notice to be published over *Accesswire*, a national-business oriented wire service, that announced a securities class action against BioNTech and certain officers and directors. [Doc. # 13-3.] The notice advised putative class members of the 60-day period to move for appointment as lead counsel. Thereafter, Docdeer filed its Motion. Of the movants here, Docdeer has the greatest financial interest in the litigation (a fact the other movants acknowledge). [*Compare* Doc. # 13-2 (Docdeer’s \$154,269.86 claimed loss), *with* Doc. # 17-3 (Daniels’ claimed \$15,469 loss) *and* Doc. # 21-1 (Rongpeng’s claimed \$127,135 loss).]

Docdeer also satisfies Rule 23’s typicality and adequacy requirements. “Under [Rule 23’s] permissive standards, representative claims are ‘typical’ if they are reasonably co-extensive with those of absent class members; they need not be substantially identical.” *Hanlon v. Chrysler Corp.*, 150 F.3d 1011, 1020 (9th Cir. 1998), *overruled on other grounds by Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338 (2011) *as stated in DZ Rsrv. v. Meta Platforms, Inc.*, No. 22-15916, 2024 WL 1203886, at *8 (9th Cir. Mar. 21, 2024). Docdeer’s claims are typical in that it purchased BioNTech securities during the class period of March 30, 2022 to October 13, 2023. [Doc. # 13-1.]

Representation by a lead plaintiff is “adequate” when class counsel is qualified and competent to prosecute the action vigorously, and the representative does not have “antagonistic or conflicting interests with the unnamed members of the class.” *Lerwill v. Inflight Motion Pictures, Inc.*, 582 F.2d 507, 512 (9th Cir. 1978). Docdeer has stated it will vigorously prosecute the action, and counsel are competent and qualified. [*See* Doc. # 13-5.] Nothing before the Court indicates that Docdeer’s interests are antagonistic to the class.

Because Docdeer has the largest financial stake in this action of the proposed lead plaintiffs and has made a *prima facie* showing that it satisfies Rule 23’s typicality and adequacy requirements, it has created a rebuttable presumption it is the most adequate plaintiff. In this case, no party has offered arguments or evidence to rebut the presumption. Accordingly, Docdeer satisfies the requirements to be appointed lead plaintiff.

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Page **3 of 3**

II.
Lead Counsel

Under 15 U.S.C. § 78u-4(a)(3)(B)(v), “[t]he most adequate plaintiff shall, subject to the approval of the court, select and retain counsel to represent the class.” Docdeer seeks the appointment of the law firm of Levi & Korsinsky LLP. The Court is satisfied that Levi & Korsinsky is experienced and qualified and can adequately represent Docdeer and the class.

III.
CONCLUSION

In light of the foregoing, the Court **GRANTS** Docdeer’s motion and **DENIES AS MOOT** Daniels’ and Rongpeng’s motions. The Court **APPOINTS** the Docdeer Foundation as lead plaintiff and Levi & Korsinsky LLP as lead counsel. The April 12, 2024 hearing on the motions is **VACATED**.

IT IS SO ORDERED.