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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

, Individually and
on behalf of all others similarly situated,

Plaintiff,

v.

SEMLER SCIENTIFIC, INC., DOUGLAS
MURPHY-CHUTORIAN, ANDREW B.
WEINSTEIN, and RENAE CORMIER,

Defendants.

Case No:

**CLASS ACTION COMPLAINT FOR
VIOLATIONS OF THE FEDERAL
SECURITIES LAWS**

JURY TRIAL DEMANDED

Plaintiff (“Plaintiff”), individually and on behalf of all other persons
similarly situated, by Plaintiff’s undersigned attorneys, for Plaintiff’s complaint against Defendants
(defined below), alleges the following based upon personal knowledge as to Plaintiff and Plaintiff’s
own acts, and information and belief as to all other matters, based upon, *inter alia*, the investigation
conducted by and through Plaintiff’s attorneys, which included, among other things, a review of
the defendants’ public documents, conference calls and announcements made by defendants,
United States Securities and Exchange Commission (“SEC”) filings, wire and press releases
published by and regarding Semler Scientific, Inc. (“Semler Scientific”) or the “Company”),
analysts’ reports and advisories about the Company, and other information readily obtainable on

1 the Internet. Plaintiff believes that substantial evidentiary support will exist for the allegations set
2 forth herein after a reasonable opportunity for discovery.

3 **NATURE OF THE ACTION**

4 1. This is a federal securities class action on behalf of a class consisting of all persons
5 and entities other than Defendants who purchased or otherwise acquired the publicly traded
6 securities of Semler Scientific between March 10, 2021 and April 15, 2025, both dates inclusive
7 (the “Class Period”). Plaintiff seeks to recover compensable damages caused by Defendants’
8 violations of the federal securities laws and to pursue remedies under Sections 10(b) and 20(a) of
9 the Securities Exchange Act of 1934 (the “Exchange Act”) and Rule 10b-5 promulgated thereunder.
10

11 **JURISDICTION AND VENUE**

12 2. The claims asserted herein arise under and pursuant to §§10(b) and 20(a) of the
13 Exchange Act (15 U.S.C. §§78j(b) and §78t(a)) and Rule 10b-5 promulgated thereunder by the SEC
14 (17 C.F.R. §240.10b-5).
15

16 3. This Court has jurisdiction over the subject matter of this action under 28 U.S.C.
17 §1331 and §27 of the Exchange Act.

18 4. Venue is proper in this District pursuant to §27 of the Exchange Act (15 U.S.C.
19 §78aa) and 28 U.S.C. §1391(b) as the alleged misstatements entered and the subsequent damages
20 took place in this judicial district. Further, the Company maintains an office within this judicial
21 district.

22 5. In connection with the acts, conduct and other wrongs alleged in this Complaint,
23 Defendants, directly or indirectly, used the means and instrumentalities of interstate commerce,
24 including but not limited to, the United States mail, interstate telephone communications and the
25 facilities of the national securities exchange.
26

27 **PARTIES**

28 _____
¹ Unless otherwise noted, all emphasis is added.

1 6. Plaintiff, as set forth in the accompanying Certification, purchased the Company’s
2 securities at artificially inflated prices during the Class Period and was damaged upon the revelation
3 of the alleged corrective disclosure.

4 7. Defendant Semler Scientific describes itself, in pertinent part, as follows:
5 We are a company developing and marketing technology products and services that assist
6 our customers in evaluating and treating chronic diseases. Our patented and FDA cleared
7 product, QuantaFlo, measures arterial blood flow in the extremities to aid in the diagnosis of
8 PAD. We also invest in bitcoin and have adopted bitcoin as our primary treasury reserve
9 asset. As an operating business, we use cash flows as well as proceeds from equity and debt
10 financings to accumulate bitcoin. Our healthcare technology solutions business is our
11 predominant operational focus, providing cash flows and enabling us to pursue our bitcoin
12 strategy.

13 8. The Company is incorporated in Delaware and its headquarters are located at 51 E
14 Campbell Ave, Suite 107-D, Campbell, California 95008. Semler Scientific common stock trades
15 on the Nasdaq Stock Market LLC (the “NASDAQ”) under the ticker symbol “SMLR”.

16 9. Defendant Douglas Murphy-Chutorian, M.D. (“Murphy-Chutorian”) has served as
17 Semler Scientific’s Chief Executive Officer (“CEO”) since October 2012 with the exception of
18 April 1-27, 2023). He also serves on the board of directors (the “Board”).

19 10. Defendant Andrew B. Weinstein (“Weinstein”) served as Semler Scientific’s Senior
20 Vice President, Finance and Accounting (the Principal Financial Officer) from the beginning of the
21 Class Period until July 10, 2023.

22 11. Defendant Renae Cormier (“Cormier”) has served as Semler Scientific’s Chief
23 Financial Officer (“CFO”) since July 2023.

24 12. Defendants Murphy-Chutorian, Weinstein, and Cormier are sometimes referred to
25 herein as the “Individual Defendants.”

26 13. Each of the Individual Defendants:

- 27 (a) directly participated in the management of the Company;
- 28 (b) was directly involved in the day-to-day operations of the Company at the highest
 levels;

- 1 (c) was privy to confidential proprietary information concerning the Company and its
2 business and operations;
- 3 (d) was directly or indirectly involved in drafting, producing, reviewing and/or
4 disseminating the false and misleading statements and information alleged herein;
- 5 (e) was directly or indirectly involved in the oversight or implementation of the
6 Company's internal controls;
- 7 (f) was aware of or recklessly disregarded the fact that the false and misleading
8 statements were being issued concerning the Company; and/or
- 9 (g) approved or ratified these statements in violation of the federal securities laws.

10 14. The Company is liable for the acts of the Individual Defendants and its employees
11 under the doctrine of *respondeat superior* and common law principles of agency because all of the
12 wrongful acts complained of herein were carried out within the scope of their employment.

13 15. The scienter of the Individual Defendants and other employees and agents of the
14 Company is similarly imputed to the Company under *respondeat superior* and agency principles.

15 16. The Company and the Individual Defendants are referred to herein, collectively, as
16 the "Defendants."

17
18 **SUBSTANTIVE ALLEGATIONS**
19 **Materially False and Misleading Statements**
20 **Issued During the Class Period**

21 17. On March 9, 2021, after the market closed, the Company filed with the SEC its
22 annual report on Form 10-K for the year ended December 31, 2020 (the "2020 Annual Report").
23 Attached to the 2020 Annual Report were certifications pursuant to the Sarbanes-Oxley Act of
24 2002 ("SOX") signed by Defendants Murphy-Chutorian and Weinstein attesting to the accuracy of
25 financial reporting, the disclosure of any material changes to the Company's internal control over
26 financial reporting, and the disclosure of all fraud.

27 18. The 2020 Annual Report contained the following statement:
28 Our operations may be subject to federal and state healthcare laws and regulations
including fraud and abuse laws, such as anti-kickback and false claims laws, data privacy

1 and security laws and transparency laws related to payments and/or other transfers of value
2 made to physicians and other healthcare professionals and teaching hospitals.

3 * * *

4 Additionally, the civil False Claims Act prohibits knowingly presenting or causing the
5 presentation of a false, fictitious or fraudulent claim for payment to the U.S. government.
6 Actions under the False Claims Act may be brought by the Attorney General or as a qui tam
7 action by a private individual in the name of the government. ***The federal government is***
8 ***using the civil False Claims Act, and the accompanying threat of significant liability, in***
9 ***its investigations of healthcare providers and suppliers throughout the country for a wide***
10 ***variety of Medicare billing practices and has obtained multi-million and multi-billion***
11 ***dollar settlements in addition to individual criminal convictions.*** In addition, off-label
12 promotion has been pursued as a violation of the federal False Claims Act. Pursuant to FDA
13 regulations, we can only market our products for cleared or approved uses. Although
14 physicians are permitted to use medical devices for indications other than those cleared or
15 approved by the FDA based on their independent medical judgment, we are prohibited from
16 promoting products for such off-label uses. Given the significant size of actual and potential
17 settlements, it is expected that the government will continue to devote substantial resources
18 to investigating healthcare providers' and suppliers' compliance with the healthcare
19 reimbursement rules and fraud and abuse laws.

20 * * *

21 ***To enforce compliance with the federal laws, the U.S. Department of Justice, or DOJ,***
22 ***has increased its scrutiny of interactions between healthcare companies and healthcare***
23 ***providers, which has led to an unprecedented level of investigations, prosecutions,***
24 ***convictions and settlements in the healthcare industry.*** Dealing with investigations can be
25 time- and resource-consuming. Additionally, if a healthcare company settles an
26 investigation with the DOJ or other law enforcement agencies, the company may be
27 required to agree to additional compliance and reporting requirements as part of a consent
28 decree or corporate integrity agreement.

* * *

If a governmental authority were to conclude that we are not in compliance with
applicable fraud and abuse laws and regulations, we and our officers and employees
could be subject to severe penalties including, for example, civil, criminal and
administrative penalties, damages, fines, disgorgement, individual imprisonment,
exclusion from participation as a supplier of product to beneficiaries covered by
Medicare or Medicaid, additional reporting obligations and oversight if subject to a
corporate integrity agreement or other agreement to resolve allegations of non-compliance
with these laws, contractual damages, reputational harm, diminished profits and future
earnings, and curtailment or restructuring of operations, any of which could adversely affect
our ability to operate our business and the results of our operations.

1 19. The statement in ¶ 18 was materially false and misleading at the time it was made
2 because it understated risks the Company faced by discussing how the U.S. Department of Justice
3 had increased its scrutiny of healthcare industry companies for, among other reasons, the False
4 Claims Act, while omitting that the United States Department of Justice had in fact been
5 investigating Semler Scientific for violations of the False Claims Act.

6 20. On March 4, 2022, the Company filed with the SEC its annual report on Form 10-K
7 for the year ended December 31, 2021 (the “2021 Annual Report”). Attached to the 2021 Annual
8 Report were certifications pursuant to SOX signed by Defendants Murphy-Chutorian and Weinstein
9 attesting to the accuracy of financial reporting, the disclosure of any material changes to the
10 Company’s internal control over financial reporting, and the disclosure of all fraud.

11 21. The 2021 Annual Report contained a substantially similar statement as the one
12 contained in ¶ 18.

13 22. As such, the statement referenced in ¶ 21 was materially false and misleading at the
14 time it was made for the reasons discussed in ¶ 19. Further, the DOJ had issued a civil investigative
15 demand relating to possible violations of the False Claims Act in December 2021.

16 23. On March 23, 2023, the Company filed with the SEC its annual report on Form 10-K
17 for the year ended December 31, 2022 (the “2022 Annual Report”). Attached to the 2022 Annual
18 Report were certifications pursuant to SOX signed by Defendants Murphy-Chutorian and Weinstein
19 attesting to the accuracy of financial reporting, the disclosure of any material changes to the
20 Company’s internal control over financial reporting, and the disclosure of all fraud.

21 24. The 2022 Annual Report contained a substantially similar statement as the one
22 contained in ¶ 18.

23 25. As such, the statement referenced in ¶ 23 was materially false and misleading at the
24 time it was made for the reasons discussed in ¶ 19. Further, the DOJ had issued a civil investigative
25 demand relating to possible violations of the False Claims Act in April 2022.
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1 *In July 2017, the Company received an initial civil investigative demand (“CID”) from the*
2 *U.S. Department of Justice (“DOJ”) pursuant to the federal False Claims Act*
3 *investigating whether the Company and others may have violated the False Claims Act by*
4 *marketing tests on devices that use photoplethysmography technology as reimbursable by*
5 *Medicare in alleged contravention of applicable laws and regulations.* The Company
6 cooperated with the investigation, along *with subsequent CIDs received in February 2019,*
7 *December 2021, April 2022 and April 2023 addressed to the Company or individual*
8 *current or former employees related to the same investigation.* In September 2024, DOJ
9 shared certain information to which the Company responded in January and February 2025.
10 On February 6, 2025, DOJ asked if the Company wished to engage in settlement discussions
11 to resolve any potential claims by February 11, 2025 and if so that the Company make a
12 settlement offer by such deadline. *Prior to February 6, 2025, DOJ had not stated an*
13 *intention to pursue a claim of wrongdoing against the Company. On February 11, 2025,*
14 *the Company began initial settlement discussions with DOJ, but ceased initial discussions*
15 *on that date. Accordingly, there is a risk that DOJ will file a complaint or complaint in*
16 *intervention in a civil False Claims Act lawsuit seeking damages.* The Company does not
17 believe the amount of loss can be reasonably estimated. The Company intends to vigorously
18 defend itself in any such action.

19 31. On this news, Semler Scientific stock fell \$4.03, or 9.38%, to close at \$38.89 on
20 March 3, 2025.

21 32. On April 15, 2025, after the market closed, Semler filed with the SEC a current
22 report on Form 8-K. It included the following disclosure:

23 As previously reported, in Part I, Item 3 of its annual report on Form 10-K for the year
24 ended December 31, 2024, on February 11, 2025, Semler Sci began initial settlement
25 discussions with DOJ pertaining to a CID, but ceased initial discussions on that date. *Semler*
26 *Sci subsequently resumed settlement discussions with DOJ and has reached agreement in*
27 *principle on payment of \$29.75 million to settle all claims (which amount excludes any*
28 *potential relator counsel fees that may also be payable).* There is no guarantee that Semler
Sci will be able to reach final agreement with DOJ or the Department of Health and Human
Services, or HHS, which may require Semler Sci to make further undertakings in connection
with the proposed settlement. If Semler Sci and DOJ are not able to conclude a final
settlement reasonably acceptable to all parties, including reaching any necessary agreements
with HHS, there is still a risk that DOJ will file a complaint or complaint in intervention in a
civil False Claims Act lawsuit seeking damages in excess of such agreed settlement amount,
which potential loss cannot be reasonably estimated. Should the parties not be able to reach
settlement and DOJ file a complaint, Semler Sci intends to vigorously defend itself in any
such action.

33. On this news, the price of Semler Scientific stock fell by \$3.40 per share, or 9.88%,
to close at \$31.00 on April 16, 2025.

- 1 • whether the federal securities laws were violated by Defendants' acts as alleged
- 2 herein;
- 3 • whether statements made by Defendants to the investing public during the Class
- 4 Period misrepresented material facts about the financial condition, business,
- 5 operations, and management of the Company;
- 6 • whether Defendants' public statements to the investing public during the Class
- 7 Period omitted material facts necessary to make the statements made, in light of the
- 8 circumstances under which they were made, not misleading;
- 9 • whether the Individual Defendants caused the Company to issue false and misleading
- 10 SEC filings and public statements during the Class Period;
- 11 • whether Defendants acted knowingly or recklessly in issuing false and misleading
- 12 SEC filings and public statements during the Class Period;
- 13 • whether the prices of the Company's securities during the Class Period were
- 14 artificially inflated because of the Defendants' conduct complained of herein; and
- 15 • whether the members of the Class have sustained damages and, if so, what is the
- 16 proper measure of damages.

17 40. A class action is superior to all other available methods for the fair and efficient
18 adjudication of this controversy since joinder of all members is impracticable. Furthermore, as the
19 damages suffered by individual Class members may be relatively small, the expense and burden of
20 individual litigation make it impossible for members of the Class to individually redress the wrongs
21 done to them. There will be no difficulty in the management of this action as a class action.

22 41. Plaintiff will rely, in part, upon the presumption of reliance established by the fraud-
23 on-the-market doctrine in that:

- 24 • Defendants made public misrepresentations or failed to disclose material facts during
- 25 the Class Period;
- 26 • the omissions and misrepresentations were material;
- 27 • the Company's securities are traded in efficient markets;

28

- 1 • the Company's securities were liquid and traded with moderate to heavy volume
- 2 during the Class Period;
- 3 • the Company traded on the NASDAQ, and was covered by multiple analysts;
- 4 • the misrepresentations and omissions alleged would tend to induce a reasonable
- 5 investor to misjudge the value of the Company's securities; and
- 6 • Plaintiff and members of the Class purchased and/or sold the Company's securities
- 7 between the time the Defendants failed to disclose or misrepresented material facts
- 8 and the time the true facts were disclosed, without knowledge of the omitted or
- 9 misrepresented facts.

10 42. Based upon the foregoing, Plaintiff and the members of the Class are entitled to a
11 presumption of reliance upon the integrity of the market.

12 43. Alternatively, Plaintiff and the members of the Class are entitled to the presumption
13 of reliance established by the Supreme Court in *Affiliated Ute Citizens of the State of Utah v. United*
14 *States*, 406 U.S. 128, 92 S. Ct. 2430 (1972), as Defendants omitted material information in their
15 Class Period statements in violation of a duty to disclose such information, as detailed above.

16 **COUNT I**

17 **Violation of Section 10(b) of The Exchange Act and Rule 10b-5** 18 **Against All Defendants**

19 44. Plaintiff repeats and realleges each and every allegation contained above as if fully
20 set forth herein.

21 45. This Count is asserted against the Company and the Individual Defendants and is
22 based upon Section 10(b) of the Exchange Act, 15 U.S.C. § 78j(b), and Rule 10b-5 promulgated
23 thereunder by the SEC.

24 46. During the Class Period, the Company and the Individual Defendants, individually
25 and in concert, directly or indirectly, disseminated or approved the false statements specified above,
26 which they knew or deliberately disregarded were misleading in that they contained
27 misrepresentations and failed to disclose material facts necessary in order to make the statements
28 made, in light of the circumstances under which they were made, not misleading.

1 47. The Company and the Individual Defendants violated §10(b) of the 1934 Act and
2 Rule 10b-5 in that they:

- 3 • employed devices, schemes and artifices to defraud;
- 4 • made untrue statements of material facts or omitted to state material facts necessary
5 in order to make the statements made, in light of the circumstances under which they
6 were made, not misleading; or
- 7 • engaged in acts, practices and a course of business that operated as a fraud or deceit
8 upon plaintiff and others similarly situated in connection with their purchases of the
9 Company's securities during the Class Period.

10 48. The Company and the Individual Defendants acted with scienter in that they knew
11 that the public documents and statements issued or disseminated in the name of the Company were
12 materially false and misleading; knew that such statements or documents would be issued or
13 disseminated to the investing public; and knowingly and substantially participated, or acquiesced in
14 the issuance or dissemination of such statements or documents as primary violations of the
15 securities laws. These defendants by virtue of their receipt of information reflecting the true facts of
16 the Company, their control over, and/or receipt and/or modification of the Company's allegedly
17 materially misleading statements, and/or their associations with the Company which made them
18 privy to confidential proprietary information concerning the Company, participated in the
19 fraudulent scheme alleged herein.

20 49. Individual Defendants, who are the senior officers and/or directors of the Company,
21 had actual knowledge of the material omissions and/or the falsity of the material statements set forth
22 above, and intended to deceive Plaintiff and the other members of the Class, or, in the alternative,
23 acted with reckless disregard for the truth when they failed to ascertain and disclose the true facts in
24 the statements made by them or other personnel of the Company to members of the investing
25 public, including Plaintiff and the Class.

26 50. As a result of the foregoing, the market price of the Company's securities was
27 artificially inflated during the Class Period. In ignorance of the falsity of the Company's and the
28 Individual Defendants' statements, Plaintiff and the other members of the Class relied on the

1 statements described above and/or the integrity of the market price of the Company's securities
2 during the Class Period in purchasing the Company's securities at prices that were artificially
3 inflated as a result of the Company's and the Individual Defendants' false and misleading
4 statements.

5 51. Had Plaintiff and the other members of the Class been aware that the market price of
6 the Company's securities had been artificially and falsely inflated by the Company's and the
7 Individual Defendants' misleading statements and by the material adverse information which the
8 Company's and the Individual Defendants did not disclose, they would not have purchased the
9 Company's securities at the artificially inflated prices that they did, or at all.

10 52. As a result of the wrongful conduct alleged herein, Plaintiff and other members of
11 the Class have suffered damages in an amount to be established at trial.

12 53. By reason of the foregoing, the Company and the Individual Defendants have
13 violated Section 10(b) of the 1934 Act and Rule 10b-5 promulgated thereunder and are liable to the
14 Plaintiff and the other members of the Class for substantial damages which they suffered in
15 connection with their purchases of the Company's securities during the Class Period.

16 **COUNT II**

17 **Violation of Section 20(a) of The Exchange Act** 18 **Against The Individual Defendants**

19 54. Plaintiff repeats and realleges each and every allegation contained in the foregoing
20 paragraphs as if fully set forth herein.

21 55. During the Class Period, the Individual Defendants participated in the operation and
22 management of the Company, and conducted and participated, directly and indirectly, in the
23 conduct of the Company's business affairs. Because of their senior positions, they knew the adverse
24 non-public information regarding the Company's business practices.

25 56. As officers and/or directors of a publicly owned company, the Individual Defendants
26 had a duty to disseminate accurate and truthful information with respect to the Company's financial
27 condition and results of operations, and to correct promptly any public statements issued by the
28 Company which had become materially false or misleading.

