UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

MACARIA MEZA, Individually and on Behalf of All Others Similarly Situated,

Plaintiff,

v.

CONSTELLATION BRANDS, INC., BILL NEWLANDS, AND GARTH HANKINSON,

Defendants.

DECISION AND ORDER

6:25-CV-06107 EAW

INTRODUCTION

Plaintiff Macaria Meza ("Plaintiff") initiated this putative class action lawsuit, alleging that defendants Constellation Brands, Inc. ("Constellation"), Constellation's President and Chief Executive Officer Bill Newlands ("Newlands"), and Constellation's Executive Vice President and Chief Financial Officer Garth Hankinson ("Hankinson") (collectively, "Defendants") violated federal securities laws by making false and misleading statements that artificially inflated the value of Constellation's securities. (Dkt. 1). Movant Low Lily ("Movant") filed a motion on April 21, 2025, requesting to be appointed as the lead plaintiff in this action and for the law firm Levi & Korsinsky, LLP to be appointed as lead counsel for the putative class. (Dkt. 17). No other party, including Plaintiff, has filed a request for similar relief. For the following reasons, Movant's motion is granted.

BACKGROUND

Constellation is an international producer, marketer, and seller of beverages, including beer, wine, and spirits. (Dkt. 1 at ¶ 18). The complaint alleges that investors who purchased or otherwise acquired Constellation's securities between April 11, 2024, to January 8, 2025 ("Class Period"), were damaged by Defendants' violations of the federal securities laws. (*Id*. at ¶ 1). Defendants allegedly made materially false and misleading statements causing "Plaintiff and other shareholders to purchase Constellation's securities at artificially inflated prices." (*Id*. at ¶ 3).

The complaint asserts two causes of action: first, against Defendants for violations of § 10(b) of the Securities Exchange Act of 1934 ("Exchange Act") and Rule 10b-5 promulgated thereunder (*id.* at ¶¶ 79-88); and second, against Newlands and Hankinson for violations of § 20(a) of the Exchange Act (*id.* at ¶¶ 89-94). The claims are asserted on behalf of all persons or entities that purchased or otherwise acquired Constellation's securities during the Class Period. (*Id.* at ¶ 1).

On April 21, 2025, Movant filed this motion to be appointed as lead plaintiff and for the law firm Levi & Korsinsky, LLP to be appointed as lead counsel for the putative class. (Dkt. 17). Movant filed supplemental briefs on May 13, 2025 (Dkt. 21), and May 20, 2025 (Dkt. 22). The motion is unopposed and no other party has sought similar relief.

DISCUSSION

I. Legal Standard

The Private Securities Litigation Reform Act ("PSLRA") provides that a court shall appoint the "most adequate plaintiff" to represent the class; that is, the plaintiff "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). Any purported class member may move for appointment as lead plaintiff within 60 days of the publication of notice that the action has been filed. *Id.* § 78u-4(a)(3)(A)(i)(II). The PSLRA directs that there is a "rebuttable presumption" that the "most adequate plaintiff" is the one who: (1) "has either filed the complaint or made a motion;" (2) "has the largest financial interest in the relief sought by the class;" and (3) "otherwise satisfies the requirements of Rule 23 of the Federal Rules of Civil Procedure." *Id.* § 78u-4(a)(3)(B)(iii)(I). This presumption may be rebutted "only upon proof by a member of the purported plaintiff class that the presumptively most adequate plaintiff . . . will not fairly and adequately protect the interests of the class; or . . . is subject to unique defenses that render such plaintiff incapable of adequately representing the class." *Id.* § 78u-4(a)(3)(B)(iii)(II). "Even when a motion to appoint lead plaintiff is unopposed, the Court must still consider the factors under the PSLRA to ensure that the movant is the most adequate plaintiff." *Chitturi v. Kingold Jewelry, Inc.*, No. 20-CV-2886-LDH-SJB, 2020 WL 8225336, at *4 (E.D.N.Y. Dec. 22, 2020) (citing *Nurlybaev v. ZTO Express (Cayman) Inc.*, No. 17-CV-6130, 2017 WL 5256769, at *1 (S.D.N.Y. Nov. 13, 2017)).

II. Motion to Appoint Lead Plaintiff

Only Movant has filed a motion to be appointed as lead plaintiff and as previously noted, her motion is unopposed. Because Movant has met her required burden to show she is the most adequate plaintiff and there has been no rebuttal of that presumption, the Court grants Movant's motion.

Levi & Korsinsky, LLP, counsel for Plaintiff and Movant, published notice of this action on February 18, 2025, in a press release through *Globe Newswire* informing investors that they had until April 21, 2025, to request appointment as lead plaintiff. (Dkt. 19-3); *see Parot v. Clarivate Plc*, No. 22-CV-1371 (ARR), 2022 WL 1568735, at *3 (E.D.N.Y. May 18, 2022) ("[T]he filing of a press release through *Globe Newswire* is an appropriate means of satisfying the PSLRA's notice requirement."). Sixty days from that date was Saturday, April 19, 2025, and Movant filed her motion requesting appointment on the following Monday, April 21, 2025. (Dkt. 17). Accordingly, Movant's application is timely. *See* Fed. R. Civ. P. 6(a)(1)(C) ("[I]n computing any time period specified . . . in any statute that does not specify a method of computing time . . . include the last day of the period, but if the last day is a Saturday . . . the period continues to run until the end of the next day that is not a Saturday, Sunday, or legal holiday.").

The Court must next evaluate Movant's financial interest in the litigation. In assessing the proposed lead plaintiff's financial interest, courts typically consider:

> (1) the total number of shares purchased during the class period; (2) the net shares purchased during the class period (in other words, the difference between the number of shares purchased and the number of shares sold during the class period); (3) the net funds expended during the class period (in other words, the difference between the amount spent to purchase shares

> and the amount received for the sale of shares during the class period); and (4) the approximate losses suffered.

Chitturi, 2020 WL 8225336, at *4 (quoting *In re Gentiva Sec. Litig*., 281 F.R.D. 108, 112 (E.D.N.Y. 2012)). "Financial loss, 'the last factor, is the most important element' in determining which plaintiff has the 'largest financial interest' pursuant to the PSLRA." *Lundy v. Ideanomics, Inc.*, No. 20 CIV. 4944 (GBD), 2020 WL 7389027, at *1 (S.D.N.Y. Dec. 16, 2020) (quoting *Varghese v. China Shenghuo Pharm. Holdings, Inc*., 589 F. Supp. 2d 388, 395 (S.D.N.Y. 2008)).

Movant asserts that she purchased 100 gross shares during the Class Period; retained 100 net shares during the Class Period; expended $24,221.00 in net funds; and suffered a financial loss of $6,415.72. (Dkt. 21 at 2; *see* Dkt. 19-2). No other plaintiff has come forward to assert they have a greater financial interest in this litigation. Movant has therefore satisfied her burden of demonstrating the largest financial interest. *See Carpenter v. Oscar Health, Inc.*, 631 F. Supp. 3d 157, 161-62 (S.D.N.Y. 2022) (appointing co-lead plaintiffs where "[n]o other plaintiff has come forward suggesting that she has a greater financial interest in this litigation").

Finally, the proposed lead plaintiff must "satisfy Rule 23's requirements for class certification: numerosity, commonality, typicality, and adequacy." *In re Hebron Tech. Co., Ltd. Sec. Litig.*, No. 20 CIV. 4420 (PAE), 2020 WL 5548856, at *5 (S.D.N.Y. Sept. 16, 2020). "[I]n this early stage of litigation proceedings, the factors of typicality and adequacy are most important." *In re Eastman Kodak Co. Sec. Litig.*, No. 6:21-CV-6418 EAW, 2021 WL 3361162, at *3 (W.D.N.Y. Aug. 2, 2021); *see In re Hebron Tech. Co., Ltd. Sec. Litig.*, 2020 WL 5548856, at *5 ("At this early stage of litigation, however, 'only the last two factors—typicality and adequacy—are pertinent.'" (citations omitted)).

Movant has demonstrated appropriate preliminary showings as to both typicality and adequacy. "The typicality requirement is satisfied when 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." *Carpenter*, 631 F. Supp. 3d at 162 (quotation and citation omitted). Like all putative class members, Movant's claims arise from Defendants' allegedly false and misleading statements and/or omissions concerning Constellation's business that caused her to purchase Constellation securities at artificially inflated prices. (Dkt. 18 at 10). Her claims are likewise based on the same legal arguments that Defendants violated federal securities laws. (*Id.*). Therefore, Movant's claims are typical of other class members. *See Cullinan* v. *Cemtrex, Inc.*, 287 F. Supp. 3d 277, 288-89 (E.D.N.Y. 2018) (typicality requirement satisfied where proposed lead plaintiff purchased inflated securities based on defendants' alleged misrepresentations).

As to adequacy at this stage of the proceedings, Movant "must make a preliminary showing" that her choice for class counsel "is qualified, experienced, and generally able to conduct the litigation;" that "there is no conflict between the proposed lead plaintiff[] and the members of the class;" and that she has "a sufficient interest in the outcome of the case to ensure vigorous advocacy." *Carpenter*, 631 F. Supp. 3d at 162 (quoting *Foley v. Transocean Ltd.*, 272 F.R.D. 126, 131 (S.D.N.Y. 2011)). Movant argues that she has retained counsel, Levi & Korsinsky, LLP, that is experienced in securities litigation and qualified to prosecute the action. (Dkt. 18 at 11); *see Carpenter*, 631 F. Supp. 3d at 162

(Levi & Korsinsky, LLP was "well-qualified" in satisfying the adequacy determination). Movant also argues that she is unaware of any conflicts between her and other members of the putative class and that her financial loss will ensure her "vigorous advocacy" of the action. (Dkt. 18 at 11); *see Cullinan*, 287 F. Supp. 3d at 289 (movant's showing that it was unaware of any conflicts between its claims and those of the putative class and that its financial losses will "ensure vigorous advocacy" were sufficient to satisfy the adequacy requirement).

Accordingly, Movant has satisfied the presumption that she is the most adequate plaintiff to represent the class. This presumption has not been rebutted. Movant's motion to be appointed lead plaintiff is therefore granted.

III. Motion to Appoint Lead Counsel

Movant also requests that the Court approve her selection of Levi & Korsinsky, LLP as lead counsel for the class. (Dkt. 17). The PSLRA provides that "[t]he most adequate plaintiff shall, subject to the approval of the court, select and retain counsel to represent the class." 15 U.S.C. § 78u-4(a)(3)(B)(v). Courts have held that the PSLRA "evidences a strong presumption in favor of approving a properly-selected lead plaintiff's decisions as to counsel selection and counsel retention." *In re Adelphia Commc'ns Corp. Sec. & Derivative Litig.*, No. 03 MDL 1529 (LMM), 2008 WL 4128702, at *2 (S.D.N.Y. Sept. 3, 2008), *aff'd sub nom. Victor v. Argent Classic Convertible Arbitrage Fund L.P.*, 623 F.3d 82 (2d Cir. 2010) (quoting *In re Cendant Corp. Litig.*, 264 F.3d 201, 276 (3d Cir. 2001)). Movant states that Levi & Korsinsky, LLP "possesses extensive experience and expertise in securities litigation, [and] has the necessary resources to efficiently and effectively prosecute" this action. (Dkt. 18 at 12). Levi & Korsinsky, LLP's firm resume supports this conclusion that it has extensive experience as lead counsel in securities class actions. (*See* Dkt. 19-5 at 9-12). Based on Movant's representations and the accompanying firm resume, Movant's request to appoint Levi & Korsinsky, LLP as lead counsel for the class is granted. *See Cullinan*, 287 F. Supp. 3d at 289-90 (approving Levi & Korsinsky, LLP as lead counsel in securities class action).

CONCLUSION

For the foregoing reasons, Movant's motion to be appointed lead plaintiff and to appoint Levi & Korsinsky, LLP as lead counsel (Dkt. 17) is granted.[1]

SO ORDERED.

ELIZABETH A. WOLFORD
Chief Judge
United States District Court

Dated: May 28, 2025
Rochester, New York

[1] Movant submitted a proposed order with her motion in which she requests that the Court specifically define lead counsel's responsibilities and duties. (*See* Dkt. 17-1 at ¶¶ 4-7). The Court has declined to do so at this time because it seems unnecessary and no explanation has been provided for why these duties and responsibilities need to be expressly delineated.

In addition, the proposed order contains language regarding newly filed or transferred actions (*id*. at ¶¶ 8-9), along with preservation of discoverable material (*id*. at ¶ 10). But this relief is not addressed in any way in the pending motion papers. Any request for relief in this regard should either be pursued through a subsequent motion outlining the reasons for the requests or stipulation and proposed order agreed upon by all the parties.