UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

JEREMY STOUT, Individually and on Behalf of All Others Similarly Situated, Plaintiff, v. SKYE BIOSCIENCE, INC., PUNIT DHILLON, KAITLYN ARSENAULT, and CHRISTOPHER G. TWITTY Defendants.	Case No.: 3:25-cv-03177-WQH-DEB **ORDER**

HAYES, Judge:

The matter before the Court is the Motion to Appoint Counsel and Lead Plaintiff filed by Movant Randall Scott Therrell. (ECF No. 3.)

I. PROCEDURAL HISTORY

On November 17, 2025, Plaintiff Jeremy Stout ("Plaintiff") filed a Complaint against Defendants Skye Bioscience, Inc. ("Skye"); Punit Dhillon; Kaitlyn Arsenault; and Christopher G. Twitty (collectively, "Defendants") alleging violations of federal securities laws related to Defendants' development of a pharmaceutical product named nimacimab. (ECF No. 1 at 1–3.) Plaintiff seeks to represent a class of "all persons and entities other than Defendants that purchased or otherwise acquired Skye securities between November 4, 2024 and October 3, 2025" (the "Class Period"). *Id.* at 2.

On January 16, 2026, Movant Randall Scott Therrell ("Therrell") filed the pending Motion to Appoint Counsel and Appoint Lead Plaintiff ("Motion for Appointment"). (ECF No. 3.)

On January 16, 2026, Movant Scott Simon ("Simon") filed a Motion to Appoint Counsel and Lead Plaintiff. (ECF No. 4.) Movant Simon filed a Notice of Withdrawal regarding his motion on February 9, 2026. (ECF No. 5.)

On February 9, 2026, Movant Therrell filed a Response in Support of his Motion for Appointment. (ECF No. 6.)

On February 9, 2026, Plaintiff filed an executed Wavier of Service form with respect to each Defendant. (ECF Nos. 7–10.)

On February 10, 2026, Movant Therrell filed a Notice of Non-Opposition to his Motion for Appointment. (ECF No. 11.)

II. LEGAL STANDARD

The Private Securities Litigation Reform Act of 1995 ("PSLRA"), 15 U.S.C. § 78u-4, *et seq.*, requires that a district court "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). In determining which member or members are most capable of representing the interests of class members, a district court "shall adopt a presumption that the most adequate plaintiff" is the person or group that (a) has either filed the complaint or moved for appointment as lead plaintiff, (b) "has the largest financial interest in the relief sought by the class," and (c) otherwise satisfies the requirements of Federal Rule of Civil Procedure 23 ("Rule 23"). *Id.* at §§ 78u-4(a)(3)(B)(iii)(I)(aa)–(cc).

District courts undertake a three-step analysis to determine the most appropriate lead plaintiff under the PSLRA. *In re Cavanaugh*, 306 F.3d 726, 729 (9th Cir. 2002). First, the Court must determine that the plaintiff has publicized the action in a "widely circulated national business-oriented publication or wire service" within twenty days of filing the complaint. 15 U.S.C. § 78u-4(a)(3)(A)(i). Second, the district court must select the presumptive lead plaintiff by assessing the financial losses suffered by those seeking appointment as the lead plaintiff and determining whether that plaintiff satisfies the requirements of Federal Rule of Civil Procedure 23(a). "In other words, the district court must compare the financial stakes of the various plaintiffs and determine which one has the most to gain from the lawsuit. It must then focus its attention on *that* plaintiff and determine, based on the information he has provided in his pleadings and declarations, whether he satisfies the requirements of Rule 23(a), in particular those of 'typicality' and 'adequacy.'" *Cavanaugh*, 306 F.3d at 730. If the plaintiff with the "largest financial stake in the controversy provides information that satisfies these requirements," that plaintiff shall become the "presumptively most adequate plaintiff." *Id.* Third, the district court must provide other moving plaintiffs the "opportunity to rebut the presumptive lead plaintiff's showing that it satisfies Rule 23's typicality and adequacy requirements." *Id.* (citing 15 U.S.C. § 78u-4(a)(3)(B)(iii)(II)).

Following the appointment of a lead plaintiff, the PSLRA provides that the "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).

III. DISCUSSION

Movant Therrell requests appointment as lead plaintiff and the approval of his representatives, the law firm Levi & Korsinsky, LLP, as lead counsel for the proposed class in this action. (ECF No. 3 at 7.) Movant Therrell contends that he has the largest financial interest in this action: $165,426.08 in total losses resulting from his purchase of Skye securities during the Class Period. In support of his motion, Movant Therrell submits the Declaration of Adam M. Apton. (ECF No. 3-2.) Mr. Apton declares that he is "counsel for proposed Lead Plaintiff [Therrell]" and attests to the accuracy of attached exhibits that describe Movant Therrell's financial losses in the same amount. *Id.* ¶ 1; *see* Exhibit B, Apton Decl., ECF No. 3-4 at 2 (summarizing Movant Therrell's purchases of Skye securities and reporting a "LIFO Loss Total" for the period of $165,426.08). Movant

Therrell also contends that he satisfies the requirements of Rule 23 because he can fairly and adequately represent the interests of the proposed class. (ECF No. 3 at 7.)

Following Movant Simon's withdrawal of his motion for appointment as lead plaintiff, the docket reflects that there are no other pending motions for appointment. (ECF No. 5 at 2 ("Simon hereby withdraws his Lead Plaintiff Motion.").)

1. *Procedural Requirements*

Movant Therrell contends that, on November 17, 2025, counsel published a notice of this action in "ACCESS Newswire," a "widely-circulated national business-oriented wire service." (ECF No. 3 at 10 n.6; *see* Exhibit C, Apton Decl., ECF No. 3-5 (submitting a digital copy of the notice).) The Court determines that this notice complies with the requirements of the PSLRA because it was published within twenty days of the filing of the Complaint, listed the claims in this action, identified the Class Period, and advised putative class members that they had sixty days from the date of publication of the notice to seek appointment as lead plaintiff in the action. 15 U.S.C. § 78u-4(a)(3)(A). The procedural requirements of the PLSRA are satisfied.

2. Financial Interest

Courts consider the *Olsten-Lax* factors to assess which movants have the largest financial interest in a securities class action: "(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 during the class period." *In re Olsten Corp. Sec. Litig.*, 3 F. Supp. 2d 286, 295 (E.D.N.Y. 1998) (citing *Lax v. First Merchants Acceptance Corp.*, 1997 WL 461036 at *5 (N.D. Ill. Aug. 11, 1997)); *Alonzo v. Dexcom Inc.*, No. 24-CV-1485-RSH-VET, 2024 WL 5112751, at *4 (S.D. Cal. Dec. 13, 2024). The fourth factor—the total losses suffered—is the "most determinative in identifying the plaintiff with the largest financial loss." *Richardson v. TVIA, Inc.*, No. C 06 06304 RMW, 2007 WL 1129344, at *3 (N.D. Cal. Apr. 16, 2007).

Movant Therrell contends that he suffered a total loss of $165,426.08 as a result of his purchase of Skye securities during the Class period. (ECF No. 3 at 12.) The sworn declaration of his legal representative and the Exhibit attached thereto confirm the same. (Exhibit B, Apton Decl., ECF No 3-4).

Movant Simon contended that he suffered losses in the amount of approximately $138,277.00 and has since withdrawn his motion for appointment as lead plaintiff. (ECF No. 4 at 11; ECF No. 5.)

The docket reflects that Plaintiff has not filed a motion for appointment as lead counsel. The Court, however, considers the information in his Complaint (ECF No. 1) in its analysis of which party qualifies as the most appropriate representative on behalf of the proposed class. Plaintiff submitted, as an Exhibit to his Complaint, a document that identifies the purchase of 73 shares of Skye in Plaintiff's name in the amount of approximately $288.03. (See ECF No. 1-3.)

Based on the record, the Court determines that Movant Therrell has the largest financial interest in this action because he has suffered the greatest financial losses in connection with the purchase of Skye securities during the Class Period.

3. Rule 23(a)

The Court considers whether Movant Therrell satisfies "the requirements of Rule 23(a), in particular those of 'typicality' and 'adequacy.'" *Cavanaugh*, 306 F.3d at 730. Rule 23(a) invites a determination as to whether "the claims or defenses of the [lead plaintiff] are typical of the claims or defenses of the class" and whether "the [lead plaintiff] will fairly and adequately protect the interests of the class." Fed. R. Civ. P. 23(a).

Typicality requires that courts consider "whether other members [of the class] have the same or similar injury [as the lead plaintiff], whether the action is based on conduct which is not unique to the [lead plaintiff], and whether other class members have been injured by the same course of conduct." *Hanon v. Dataproducts Corp.*, 976 F.2d 497, 508 (9th Cir. 1992) (quotation omitted). "The purpose of the typicality requirement is to assure that the interest of the named representative aligns with the interests of the class." *Id.* Here, Movant Therrell asserts claims that are typical of the proposed class because he claims to have suffered losses during the Class Period by virtue of his purchase of Skye securities and their subsequent depreciation following Defendants' allegedly wrongful conduct. (ECF No. 3 at 14–15.) Movant Therrell seeks to bring claims based on the same injury resulting from the same course of conduct as the proposed class members, and these substantial similarities are sufficient to establish typicality within the meaning of Rule 23(a). *See, e.g.*, *Foster v. Maxwell Techs., Inc.*, 2013 WL 5780424, at *5 (S.D. Cal. Oct. 24, 2013).

Adequacy requires that courts consider whether a lead plaintiff has any "conflicts of interest with other class members" and whether counsel for a lead plaintiff will "prosecute the action vigorously on behalf of the class[.]" *In re Mersho*, 6 F.4th 891, 900 (9th Cir. 2021) (quotation omitted). Movant Therrell contends that he is a "sophisticated investor" and "has experience overseeing attorneys" in the context of "real estate and estate planning matters." (ECF No. 3 at 16.) Here, there is no indication that Movant Therrell has any conflict of interest with other members of the proposed class nor that he is subject to unique defenses compared to other members of the proposed class. Movant Simon's withdrawal of his motion for appointment also indicates that there is no evident conflict of interest between Movant Therrell and other members of the proposed class.

The Court holds that Movant Therrell satisfies the typicality and adequacy requirements of Rule 23(a).

4. Rebuttal Evidence

Based on the foregoing, the Court adopts the presumption that Movant Therrell is the most adequate Lead Plaintiff in this consolidated action. 15 U.S.C. § 78u-4(a)(3)(B)(iii)(I). This presumption may be rebutted "only upon proof by a member of the purported plaintiff class" that Movant Therrell "will not fairly and adequately protect the interests of the class" or is "subject to unique defenses that render such plaintiff[s] incapable of adequately representing the class." *Id.* at (a)(3)(B)(iii)(II). Here, no other party has presented evidence suggesting that Movant Therrell is an inadequate representative of the class. Absent such proof, Movant Therrell is entitled to be appointed as lead plaintiff in this action. *See, e.g.*, *Miami Police Relief & Pension Fund v. Fusion-io, Inc.*, No. 13-CV-05368-LHK, 2014 WL 2604991, at *6 (N.D. Cal. June 10, 2014).

The Court considers whether Movant Therrell's selection of legal counsel is adequate. "[I]f the lead plaintiff has made a reasonable choice of counsel, the district court should generally defer to that choice." *Cohen v. U.S. Dist. Ct. for N. Dist. of California*, 586 F.3d 703, 712 (9th Cir. 2009). Movant Therrell is represented by Levi & Korsinsky, LLP. Movant contends that his legal representatives "have extensive experience in successfully prosecuting complex securities actions" and are "well-qualified" to represent the proposed class. (ECF No. 3 at 17.) Movant Therrell submits a firm resume describing the work of Levi & Korsinsky, LLP. (Exhibit E, Apton Decl., ECF No. 3-7.) Based on the firm's experience in securities litigation, the Court determines that the appointment of Levi & Korsinsky, LLP as lead counsel is appropriate in this action.

IV. CONCLUSION

IT IS HEREBY ORDERED that the Motion to Appoint Counsel and Appoint Lead Plaintiff (ECF No. 3) filed by Randall Scott Therrell is granted.

IT IS FURTHER ORDERED that Randall Scott Therrell is appointed as lead plaintiff in the above-captioned action.

IT IS FURTHER ORDERED that the selection of Levi & Korsinsky, LLP to serve as lead counsel is approved.

Dated: March 9, 2026

William Q. Hayes

Hon. William Q. Hayes
United States District Court