

1 Patrick V. Dahlstrom (*Pro Hac Vice*)
2 Louis C. Ludwig (*Pro Hac Vice*)
3 **POMERANTZ LLP**
4 Ten South La Salle Street, Suite 3505
5 Chicago, Illinois 60603
6 Telephone: (312) 377-1181
7 Facsimile: (312) 229-8811
8 E-mail: pdahlstrom@pomlaw.com
9 lcludwig@pomlaw.com

6 Jennifer Pafiti (SBN 282790)
7 **POMERANTZ LLP**
8 468 North Camden Drive
9 Beverly Hills, California 90210
10 Telephone: (818) 532-6449
11 E-mail: jpafiti@pomlaw.com

10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12 SAN FRANCISCO DIVISION

14 IN RE TERRAVIA HOLDINGS, INC.,
15 SECURITIES LITIGATION

Case No. 3:16-cv-06633-JD

CLASS ACTION

**PLAINTIFFS' MOTION FOR CLASS
CERTIFICATION**

Date: August 20, 2020
Time: 10:00 a.m.
Before: Hon. James Donato
Courtroom: 11, 19th Fl.

21 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

22 **PLEASE TAKE NOTICE** that on August 20, 2020 at 10:00 a.m. before the Honorable
23 James Donato in Courtroom 11 – 19th Floor, 450 Golden Gate Avenue, San Francisco, CA 94102,
24 proposed Class Representatives Casey Minnick (“Minnick”) and Reuben Perales (“Perales”)
25 (collectively, the “Plaintiffs”) through their counsel, will, and do move this Court for an Order,
26 pursuant to Fed. R. Civ. P. 23(a), 23(b)(3), and 23(g), for an Order:
27

- 28 1. Certifying the following class (the “Class”):
all persons other than Defendants who purchased or otherwise acquired TerraVia
Holdings, Inc. (“TerraVia”) securities between May 4, 2016 and November 6, 2016,

1 both dates inclusive (the “Class Period”), seeking to recover compensable damages
2 caused by Defendants’ violations of the federal securities laws and to pursue remedies
3 under Sections 10(b) and 20(a) of the Securities Exchange Act of 1934 (the “Exchange
4 Act”) and Rule 10b-5 promulgated thereunder;

- 5 2. Appointing Plaintiffs as class representatives;
- 6 3. Appointing their counsel of choice, Pomerantz LLP (“Pomerantz”); and
- 7 4. Granting such other and further relief the Court may deem just and proper.

8 Class certification and the appointment of Plaintiffs as Class Representatives are proper,
9 where, as here, the Class is so numerous that joinder of all members is impracticable, common
10 question of law and fact exist, Plaintiffs’ claims are typical of the Class claims, Plaintiffs and their
11 counsel will fairly and adequately represent the Class, common questions predominate, and a class
12 action is superior to individual actions. Additionally, the appointment of Class Counsel is proper,
13 where, as here, counsel is well qualified to represent the Class.

14 This Motion is made pursuant to the Court’s Order entered on May 1, 2020 (ECF No. 88).
15 The Motion is based on this Notice of Motion, the accompanying Memorandum of Points and
16 Authorities, the Declaration of Louis C. Ludwig and exhibits thereto, the pleadings and other filings
17 in this matter, and other evidence and argument that may be presented prior to the Court’s decision
18 on this Motion.

19 Dated: May 12, 2020

20 Respectfully submitted,

21 **POMERANTZ LLP**

22 By: /s/ Louis C. Ludwig

23 Patrick V. Dahlstrom

24 Louis C. Ludwig

25 Ten South La Salle Street, Suite 3505

26 Chicago, IL 60603

27 Telephone: (312) 377-1181

28 Facsimile: (312) 229-8811

E-mail: pdahlstrom@pomlaw.com

E-mail: lcludwig@pomlaw.com

Proposed Class Counsel

TABLE OF CONTENTS

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

I. ISSUES TO BE DECIDED1

II. PRELIMINARY STATEMENT1

III. FACTUAL SUMMARY3

IV. ARGUMENT 4

 A. The Proposed Class Meets the Requirements of Rule 23(a)..... 5

 1. Numerosity 6

 2. Commonality6

 3. Typicality7

 4. Adequacy 8

 B. The Proposed Class Satisfies Rule 23(b)(3)8

 1. Common Questions of Law and Fact Predominate over Individual
 Questions9

 2. A Class Action Is Superior to Other Methods for Resolving This
 Controversy12

V. CONCLUSION..... 13

TABLE OF AUTHORITIES

<u>Cases</u>	<u>Pages</u>
<i>Amchem Prods. V. Windsor</i> , 521 U.S. 591 (1997)	8
<i>Amgen Inc. v. Conn. Ret. Plans & Trust Funds</i> , 133 S. Ct. 1184, 185 L. Ed. 2d 308 (2013)	7
<i>Basic Inc. v. Levinson</i> , 485 U.S. 224 (1988)	2, 9
<i>Binder v. Gillespie</i> , 184 F.3d 1059 (9th Cir. 1999).	9, 10
<i>Blackie v. Barrack</i> , 524 F.2d 891 (9th Cir. 1975)	2, 7, 9
<i>Brown v. China Integrated Energy, Inc.</i> , No. CV 11-02559 BRO (PLAx), 2015 U.S. Dist. LEXIS 19177 (C.D. Cal. Feb. 17, 2015).....	6
<i>Cammer v. Bloom</i> , 711 F. Supp. 1264 (D.N.J. 1989).	<i>passim</i>
<i>Cheney v. Cyberguard Corp.</i> , 213 F.R.D. 484 (S.D. Fla. 2003)	11
<i>Connecticut Retirement Plans & Trust Funds v. Amgen</i> , 2009 U.S. Dist. LEXIS 71653 (C.D. Cal. Aug. 12, 2009)	7
<i>Dean v. China Agritech</i> , 2012 U.S. Dist. LEXIS 70683 (C.D. Cal. May 3, 2012)	6
<i>Epstein v. MCA, Inc.</i> , 50 F.3d 644 (9th Cir. 1995)	3
<i>Ernst & Ernst v. Hochfelder</i> , 425 U.S. 185 (1976)	2
<i>Freedman v. Louisiana-Pacific Corp.</i> , 922 F. Supp. 377 (D. Or. 1996)	8
<i>Gable v. Land Rover N. Am., Inc.</i> , 2011 U.S. Dist. LEXIS 90774 (C.D. Cal. July 25, 2011)	4
<i>Hanlon v. Chrysler Corp.</i> , 150 F.3d 1011 (9th Cir. 1998)	5, 7, 9
<i>Hanon v. Dataproducts Corp.</i> , 976 F.2d 497 (9th Cir. 1992)	9
<i>Harris v. Palm Springs Alpine Estates, Inc.</i> , 329 F.2d 909 (9th Cir. 1964)	6
<i>Hodges v. Akeena Solar, Inc.</i> , 274 F.R.D. 259 (N.D. Cal. 2011)	6
<i>In re Alco Intern. Group, Inc., Sec. Litig.</i> , 158 F.R.D. 152 (S.D. Cal. 1994).....	9
<i>In re Bridgepoint Educ., Inc. Sec. Litig.</i> , 2015 U.S. Dist. LEXIS 5137 (S.D. Cal. Jan. 15, 2015)	5
<i>In re Celera Corp. Sec. Litig.</i> , 2014 U.S. Dist. LEXIS 25098 (N.D. Cal. Feb. 25, 2014).....	5
<i>In re Cooper Companies Inc. Securities Litigation</i> , 254 F.R.D. 628 (C.D. Cal. 2009)	2, 6, 7, 8
<i>In re Countrywide Fin. Corp. Sec. Litig.</i> , 273 F.R.D. 586 (C.D. Cal. 2009).....	12
<i>In re Emulex Corp. Sec. Litig.</i> , 210 F.R.D. 717 (C.D. Cal. 2002)	8

1 *In re HealthSouth Corp. Sec. Litig.*, 257 F.R.D. 260 (N.D. Ala. 2009)..... 12

2 *In re Juniper Networks, Inc. Sec. Litig.*, 264 F.R.D. 584 (N.D. Cal. 2009)12

3 *In re Magma Design Automation, Inc. Sec. Litig.*, 2007 U.S. Dist. LEXIS 62641
 4 (N.D. Cal. Aug. 16, 2007)2

5 *In re Memorex Sec. Cases*, 61 F.R.D. 88 (N.D. Cal. 1973)11

6 *In re Nature’s Sunshine Product’s Inc. Sec. Litig.*, 251 F.R.D. 656 (D. Utah 2008)10

7 *In re Portal Software, Inc. Sec. Litig.*, 2007 U.S. Dist. LEXIS 51794
 8 (N.D. Cal. June 30, 2007)5

9 *In re THQ, Inc. Sec. Litig.*, 2002 U.S. Dist. LEXIS 7753 (C.D. Cal. Mar. 22, 2002) 4, 6

10 *In re VeriSign, Inc. Sec. Litig.*, 2005 U.S. Dist. LEXIS 10438
 11 (N.D. Cal. Jan. 13, 2005)7, 10

12 *Lerwill v. Inflight Motion Pictures, Inc.*, 582 F.2d 507 (9th Cir. 1978) 8

13 *Lumen v. Anderson*, 280 F.R.D. 451 (W.D. Mo. 2012)..... 10

14 *Schneider v. Traweek*, 1990 U.S. Dist. LEXIS 15596 (C.D. Cal. July 31, 1990) 2, 4

15 *Tellabs, Inc. v. Makor Issues & Rights, Ltd.*, 551 U.S. 308 (2007) 2

16 *Vinh Nguyen v. Radiant Pharmaceuticals Corp.*, 287 F.R.D. 563
 17 (C.D. Cal. 2012)..... 5, 7, 11

18 *Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338 (2011)5

19

20

21

22

23

24

25

26

27

28

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.