

1 Jordan Eth (CA SBN 121617)
JEth@mofo.com
2 Mark R.S. Foster (CA SBN 223682)
MFoster@mofo.com
3 **MORRISON & FOERSTER LLP**
425 Market Street
4 San Francisco, CA 94105
Telephone: (415) 268-7126
5 Facsimile: (415) 268-7522

6 William Savitt (*pro hac vice*)
John F. Lynch (*pro hac vice*)
7 Noah B. Yavitz (*pro hac vice*)
John R. Rady (*pro hac vice*)
8 **WACHTELL, LIPTON, ROSEN & KATZ**
51 West 52nd Street
9 New York, NY 10019
Telephone: (212) 403-1000
10 Facsimile: (212) 403-2000

11 *Attorneys for defendants Bayer*
Aktiengesellschaft, Werner Baumann,
12 *Werner Wenning, Liam Condon,*
Johannes Dietsch, and Wolfgang Nickl
13

14 **UNITED STATES DISTRICT COURT**
15 **NORTHERN DISTRICT OF CALIFORNIA**
SAN FRANCISCO DIVISION

16 SHEET METAL WORKERS' NATIONAL
PENSION FUND and INTERNATIONAL
17 BROTHERHOOD OF TEAMSTERS LOCAL
NO. 710 PENSION FUND, individually and as
18 Lead Plaintiffs on behalf of all others similarly
situated, and
19
20 INTERNATIONAL UNION OF OPERATING
ENGINEERS PENSION FUND OF EASTERN
PENNSYLVANIA AND DELAWARE,
21 individually and as Named Plaintiff, on behalf of
all others similarly situated,

22 Plaintiffs,

23
24 v.

25 BAYER AKTIENGESELLSCHAFT, WERNER
BAUMANN, WERNER WENNING, LIAM
CONDON, JOHANNES DIETSCH, and
26 WOLFGANG NICKL,

27 Defendants.
28

Case No.: 3:20-cv-04737-RS

**DEFENDANTS' NOTICE OF MOTION
AND MOTION TO DISMISS THE
AMENDED CLASS ACTION
COMPLAINT; MEMORANDUM OF
POINTS AND AUTHORITIES IN
SUPPORT THEREOF**

CLASS ACTION

Date: July 22, 2021
Time: 1:30 p.m.
Judge: Richard Seeborg
Courtroom: 3 — 17th Floor

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NOTICE OF MOTION AND MOTION

TO PLAINTIFFS AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on July 22, 2021, at 1:30 p.m., or at such other time as the matter may be heard, in the courtroom of the Honorable Richard Seeborg, located at 450 Golden Gate Avenue, San Francisco, California, Courtroom 3, 17th Floor, attorneys for defendants Bayer Aktiengesellschaft, Werner Baumann, Werner Wenning, Liam Condon, Johannes Dietsch, and Wolfgang Nickl will, and hereby do, move to dismiss plaintiffs’ amended class action complaint (the “Complaint”) (Dkt. No. 47) pursuant to Rules 9(b) and 12(b)(6) of the Federal Rules of Civil Procedure, as well as the Private Securities Litigation Reform Act of 1995.

The motion is based upon this notice and the accompanying memorandum of points and authorities, the accompanying declaration of John F. Lynch and the exhibits submitted therewith, the accompanying request for consideration and judicial notice, the reply brief that will be filed, the papers on file in the action, the argument of counsel, and such other matters as may be considered by the Court before it takes the motion under submission.

ISSUES TO BE DECIDED

1. Whether plaintiffs’ claim under Section 10(b) of the Securities Exchange Act of 1934 should be dismissed for failure to plead falsity, scienter, and loss causation.
2. Whether plaintiffs’ claim under Section 20(a) of the Exchange Act should be dismissed because the Section 10(b) claim fails.

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Dated: March 22, 2021

By: /s/ Jordan Eth

Jordan Eth (CA SBN 121617)
JEth@mofo.com
Mark R.S. Foster (CA SBN 223682)
MFoster@mofo.com
MORRISON & FOERSTER LLP
425 Market Street
San Francisco, CA 94105
Telephone: (415) 268-7126
Facsimile: (415) 268-7522

William D. Savitt (*pro hac vice*)
John F. Lynch (*pro hac vice*)
Noah B. Yavitz (*pro hac vice*)
John R. Rady (*pro hac vice*)
WACHTELL, LIPTON, ROSEN & KATZ
51 West 52nd Street
New York, NY 10019
Telephone: (212) 403-1000
Facsimile: (212) 403-2000

*Attorneys for defendants Bayer Aktiengesellschaft,
Werner Baumann, Werner Wenning, Liam
Condon, Johannes Dietsch, and Wolfgang Nickl*

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