

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

DONGPING CAO,

Plaintiff,

vs.

UBER TECHNOLOGIES, ET AL.,

Defendants.

CASE NO. 22-cv-4688-YGR

**ORDER APPOINTING LEAD PLAINTIFF AND
 APPROVING SELECTION OF LEAD
 COUNSEL**

Re: Dkt. Nos. 7, 11

Now before the Court is movant Robert Long's motion for appointment of lead plaintiff and for approval of selection of lead counsel.¹ (Dkt. No. 7.) For the reasons set forth below, Movant Long's motion is **GRANTED**.²

I. APPOINTMENT OF LEAD PLAINTIFF

The Private Securities Litigation Reform Act of 1995 instructs district courts "to select as lead plaintiff the one 'most capable of adequately representing the interests of class members.'" *In re Cavanaugh*, 306 F.3d 726, 729 (9th Cir. 2002) (quoting 15 U.S.C. § 78u-4(a)(3)(B)(i)). The "most capable" plaintiff is generally "the one who has the greatest financial stake in the outcome of the case, so long as he meets the requirements of [Federal Rule of Civil Procedure] 23." *Id.* "In other words, the district court must compare the financial stake 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 [plaintiff] has provided in [its] pleadings and declarations, whether [it] satisfies the requirements of Rule 23(a), in particular those of 'typicality' and 'adequacy.'" *Id.* at 730.

¹ Movant Erfan Mohammadian also filed a motion for appointment of lead plaintiff and for approval of selection of lead counsel. (Dkt. No. 11.) However, following the review of Movant Long's moving papers, Movant Mohammadian filed a statement of non-opposition to Movant Long's motion. (See Dkt No. 16.) The motion is thereby unopposed.

² Pursuant to Federal Rule of Civil Procedure 78(b) and Civil Local Rule 7-1(b), the Court finds this motion appropriate for decision without oral argument. Accordingly, the Court **VACATES** the motion hearing set for **NOVEMBER 22, 2022**.

1 Movant Long submitted a declaration certifying that he suffered losses of approximately
2 \$2,623,662.24 on his investments in Uber Technologies (“Uber”) common stock. (*See* Dkt. No. 8-
3 3.) The Court has reviewed the supporting materials and finds that Movant Long has alleged the
4 greatest financial loss.

5 Next, Movant Long has made a *prima facie* showing of typicality and adequacy under Rule
6 23(a). The typicality requirement is readily satisfied as Movant Long’s claims arise out of the
7 same events and are based on the same legal theories as the claims of other class members. *See*
8 *Hanlon v. Chrysler Corp.*, 150 F.3d 1011, 1020 (9th Cir. 1998) (“[R]epresentative claims are
9 ‘typical’ if they are reasonably co-extensive with those of absent class members; they need not be
10 substantially identical.”). The Court is similarly satisfied that Movant Long will adequately
11 represent the interests of class members. Based on the firm resume of The Rosen Law Firm P.A.
12 (*see* Dkt. No. 8-4), Movant Long’s attorneys appear competent and there is no suggestion of any
13 antagonistic interests or collusive action. As the plaintiff with the highest financial interest,
14 Movant Long has a strong incentive to pursue vigorously a substantial recovery for all putative
15 class members. *See Takeda v. Turbodyne Techs., Inc.*, 67 F. Supp. 2d 1129, 1135 (C.D. Cal.
16 1999) (“The Ninth Circuit has held that representation is ‘adequate’ when counsel for the class is
17 qualified and competent, the representative’s interests are not antagonistic to the interests of absent
18 class members, and it is unlikely that the action is collusive.”) (citing *in re N. Dist. of Cal., Dalkon*
19 *Shield IUD Prods. Liab. Litig.*, 693 F.2d 847, 855 (9th Cir. 1982)).

20 Accordingly, the Court finds that Movant Long is the appropriate lead plaintiff.

21 **II. APPROVAL OF SELECTION OF LEAD COUNSEL**

22 Section 78u-4(a)(3)(B)(v) provides: “The most adequate plaintiff shall, subject to the
23 approval of the court, select and retain counsel to represent the class.” Here, Movant Long has
24 selected The Rosen Law Firm P.A. to serve as his counsel. (Mot. at 7-8.) The Rosen Law Firm
25 P.A. appears to have significant experience litigating securities class actions. (Dkt. No. 8-4.)
26 Because Movant Long has made a “reasonable choice of counsel,” the Court will “defer to that
27 choice” and appoint the firm lead counsel. *See Cohen v. U.S. Dist. Court for N. Dist. of Cal.*, 586

28 F.2d 702, 712 (9th Cir. 2000).


III. CONCLUSION

In sum, for the foregoing reasons, the Court **GRANTS** Movant Long's motion for appointment as lead plaintiff and for approval of selection of lead counsel. The Court thus **APPOINTS** Movant Robert Long as lead plaintiff and **APPOINTS** The Rosen Law Firm P.A. as lead counsel to represent the class in the class action. A joint proposed schedule for the filing of a consolidated or amended complaint shall be filed within **14 days** of this Order, or if Lead Plaintiff confirms that he does not intend to further amend the initial complaint at that time, a proposed schedule for defendants' time to respond to the complaint shall be filed within this timeline.

This Order terminates Docket Numbers 7 and 11.

IT IS SO ORDERED.

Dated: November 10, 2022


YVONNE GONZALEZ ROGERS
UNITED STATES DISTRICT COURT JUDGE

United States District Court
Northern District of California