

UNITED STATES DISTRICT COURT  
EASTERN/WESTERN DISTRICT OF VIRGINIA  
(Alexandria Division)

RICHARD GLASER, On Behalf of Himself  
and All Others Similarly Situated,

Plaintiff,

vs.

VERISIGN, INC., et al.,

Defendants.

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) Civil Action No. 1:13-cv-00060-LO-TCB

) CLASS ACTION

) MEMORANDUM OF LAW IN SUPPORT  
) OF THE CITY OF FORT LAUDERDALE  
) GENERAL EMPLOYEES' RETIREMENT  
) SYSTEM'S MOTION FOR APPOINTMENT  
) AS LEAD PLAINTIFF AND APPROVAL  
) OF SELECTION OF COUNSEL  
)

Proposed lead plaintiff City of Fort Lauderdale General Employees' Retirement System (the "Retirement System"), respectfully submits this Memorandum of Law in support of its motion for: (1) appointment of the Retirement System as lead plaintiff in this action pursuant to the Private Securities Litigation Reform Act of 1995 ("PSLRA"), 15 U.S.C. §78u-4; and (2) approval of its selection of Robbins Geller Rudman & Dowd LLP ("Robbins Geller") as Lead Counsel and The Office of Craig C. Reilly, Esq. ("Craig C. Reilly") as Local Counsel pursuant to the PSLRA.

**I. Statement of the Nature of the Matter Before the Court**

This action was filed on behalf of persons who purchased or otherwise acquired the common stock of VeriSign, Inc. ("VeriSign" or the "Company") between June 25, 2012 to October 25, 2012 (the "Class Period"). This action was brought pursuant to §§10(b) and 20(a) of the Securities Exchange Act of 1934 ("Exchange Act"), 15 U.S.C. §§78j(b) and 78t(a), and Securities and Exchange Commission ("SEC") Rule 10b-5, 17 C.F.R. §240.10b-5.

Pursuant to the PSLRA, the Court must appoint as lead plaintiff the "person or group of persons" with the largest financial interest in the litigation that otherwise satisfies the requirements of Fed. R. Civ. P. 23. *See* 15 U.S.C. §78u-4(a)(3)(B)(iii). Here, the Retirement System should be appointed as lead plaintiff because it: (1) timely filed this motion; (2) has the largest financial interest in this litigation of any proposed lead plaintiff of which it is aware; and (3) will fairly and adequately represent the interests of the class. *See* 15 U.S.C. §78u-4(a)(3)(B)(iii). In addition, the Retirement System's selection of Robbins Geller as lead counsel and Craig C. Reilly as local counsel should be approved. *See* 15 U.S.C. §78u-4(a)(3)(B)(v). Robbins Geller has extensive experience in the prosecution of securities class actions and will more than adequately represent the interests of all class members as lead counsel. *See, e.g., In re Krispy Kreme Doughnuts, Sec. Litig.*, No. 1:04CV00416, 2004 U.S. Dist. LEXIS 26282 (M.D.N.C. Oct. 6, 2004) (appointing Robbins Geller

lawyers as lead counsel); *In re Cardinal Health, Inc. Sec. Litig.*, 226 F.R.D. 298, 307 (S.D. Ohio 2005) (“the Court finds that [Robbins Geller] will represent deftly the class’s interests”).

## II. Statement of Facts

VeriSign provides Internet infrastructure services to various networks worldwide. It offers registry services that operate the authoritative directory of .com, .net, .cc, .tv, and .name domain names, as well as the back-end systems for .gov, .jobs, and .edu domain names.

The complaint alleges that throughout the Class Period, defendants highlighted the purported strong growth in VeriSign’s domain name registrations and led the market to believe that 2012 third quarter renewals were progressing with equal vigor. Specifically, the complaint alleges that during the Class Period, defendants issued materially false and misleading statements regarding the Company’s operational status and financial projections, and failed to disclose the following adverse facts: (a) that challenges to the Company’s registry pricing scheme made it more likely than not that the U.S. Department of Justice (“DOJ”) and Department of Commerce would demand price concessions in exchange for leaving VeriSign in charge of operating the .com and .net networks; (b) VeriSign’s growth in domain name registrations was in decline; (c) VeriSign was relying heavily on revenues from “parking” websites and other dubious websites focused on drawing in and monetizing traffic, rather than in providing cogent business leads; (d) defendants knew that Google and other Internet search engines had been tweaking their algorithms to improve the quality of their search results by ranking lower subpar quality websites, such as those that are not updated often or provide little or no content; (e) subpar domain name owners had stopped renewing their agreements with VeriSign as a result of the Internet search engines’ efforts to discourage them by demonetizing their practices; and (f) as a result, defendants knew VeriSign’s fiscal 2012 earnings guidance was not attainable.

On October 25, 2012, after the close of trading, VeriSign issued a press release announcing the Company's third quarter 2012 financial results. VeriSign shocked the market by disclosing that the DOJ was reviewing its domain name pricing arrangements and that it was doubtful that the review would be completed in time to allow the Commerce Department to renew its contract before it expired on November 30, 2012. On this news, VeriSign's stock fell precipitously from its October 25, 2012 closing price of \$46.60 per share to close below \$40 per share on October 26, 2012, falling \$7.21 per share, or 15.47%, on extremely high volume.

### III. Argument

#### A. The Retirement System Should Be Appointed Lead Plaintiff

The PSLRA establishes the procedure for appointing a lead plaintiff in each private action arising under the Exchange Act that is brought as a plaintiff class action pursuant to the Federal Rules of Civil Procedure. 15 U.S.C. §78u-4(a)(3)(B)(i).

First, the plaintiff who files the initial action must publish a notice to the class within 20 days of filing the action informing class members of their right to file a motion for appointment as lead plaintiff. 15 U.S.C. §78u-4(a)(3)(A)(i). Here, the relevant notice was published on *Business Wire* on January 16, 2013. *See* Affidavit of Craig C. Reilly in Support of City of Fort Lauderdale General Employees' Retirement System's Motion for Appointment as Lead Plaintiff and Approval of Selection of Counsel ("Reilly Aff."), Ex. A.<sup>1</sup> Within 60 days after publication of the notice, any person who is a member of the proposed class may apply to the court to be appointed as lead

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<sup>1</sup> The national news wire services have been recognized as suitable vehicles for meeting the statutory requirement that notice be published "in a widely circulated national business-oriented publication or wire service." *Greebel v. FTP Software*, 939 F. Supp. 57, 62 (D. Mass. 1996); *Lax v. First Merchants Acceptance Corp.*, No. 97 C 2715, 1997 U.S. Dist. LEXIS 11866, at \*2 (N.D. Ill. Aug. 11, 1997).

Unless otherwise noted, all emphasis is added and citations are omitted.

plaintiff, whether or not they have previously filed a complaint in the action. 15 U.S.C. §78u-4(a)(3)(A)(i)(II).

Second, the PSLRA provides that within 90 days after publication of the notice, the court shall consider any motion made by a class member and shall appoint as lead plaintiff the member or members of the 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). In determining the “most adequate plaintiff,” the PSLRA provides that:

[T]he court shall adopt a presumption that the most adequate plaintiff in any private action arising under this [Act] is the person or group of persons that –

(aa) has either filed the complaint or made a motion in response to a notice . . . ;

(bb) in the determination of the court, has the largest financial interest in the relief sought by the class; and

(cc) otherwise satisfies the requirements of Rule 23 of the Federal Rules of Civil Procedure.

15 U.S.C. §78u-4(a)(3)(B)(iii).

**1. The Retirement System Has Timely Moved for Appointment as Lead Plaintiff**

All class members who are interested in moving for appointment as lead plaintiff in this matter must do so by June 28, 2010. 15 U.S.C. §78u-4(a)(3)(A)(II). Pursuant to the provisions of the PSLRA and within the requisite time frame after publication of the required notice, the Retirement System hereby moves this Court in a timely manner to be appointed lead plaintiff on behalf of all members of the class.

**2. The Retirement System Has the Requisite Financial Interest in the Relief Sought by the Class**

During the Class Period, the Retirement System suffered a loss of approximately \$152,948. Reilly Aff., Ex. C. Accordingly, upon information and belief, the Retirement System has the largest financial interest in the outcome of this litigation. 15 U.S.C. §78u-4(a)(3)(B).

**3. The Retirement System Otherwise Satisfies Rule 23**

In addition to possessing the largest financial interest in the outcome of the litigation, the lead plaintiff must also “otherwise satisf[y] the requirements of Rule 23 of the Federal Rules of Civil Procedure.” 15 U.S.C. §78u-4(a)(3)(B)(iii)(cc). Rule 23(a) provides that a party may serve as a class representative only if the following four requirements are satisfied: (1) the class is so numerous that joinder of all members is impracticable; (2) there are questions of law or fact common to the class; (3) the claims or defenses of the representative parties are typical of the claims or defenses of the class; and (4) the representative parties will fairly and adequately protect the interests of the class. Of these four prerequisites, only two – typicality and adequacy – directly address the personal characteristics of the lead plaintiff movant. Consequently, in deciding a lead plaintiff motion, the court should limit its inquiry to the typicality and adequacy prongs of Rule 23(a), and defer examination of the remaining requirements until a class certification motion is filed. *See In re Cree, Inc., Sec. Litig.*, 219 F.R.D. 369, 372 (M.D.N.C. 2003).

Under Rule 23(a)(3), the claims or defenses of the representative parties must be typical of those of the class. Typicality exists where the plaintiffs’ claims arise from the same series of events and are based on the same legal theories as the claims of all the class members. *See In re Cendant Corp. Litig.*, 264 F.3d 201, 264-65 (3d Cir. 2001). Typicality does not require that there be no factual differences between the class representatives and the class members because it is the generalized nature of the claims asserted which determines whether the class representatives are typical. *See Priest v. Zayre Corp.*, 118 F.R.D. 552, 555 (D. Mass. 1988) (“With respect to typicality under Rule 23(a)(3), plaintiffs need not show substantial identity between their claims and those of absent class members, but need only show that their claims arise from the same course of conduct that gave rise to the claims of the absent [class] members.”). The court should consider whether movant’s circumstances “are markedly different or . . . the legal theory upon which the

claims [of that movant] are based differ[ ] from that upon which the claims of other class members will perforce be based.” *Hassine v. Jeffes*, 846 F.2d 169, 177 (3d Cir. 1988). The requirement that the proposed class representatives’ claims be typical of the claims of the class does not mean, however, that the claims must be identical.

The Retirement System satisfies the typicality requirement of Rule 23 because, just like all other class members, it: (1) purchased VeriSign common stock during the Class Period at artificially inflated prices; and (2) suffered damages thereby. Thus, the Retirement System’s claims are typical of those of other class members since its claims and the claims of other class members arise out of the same course of events.

Under Rule 23(a)(4) the representative party must also “fairly and adequately protect the interests of the class.” The PSLRA directs the court to limit its inquiry of the movant’s adequacy to represent the class to the following: (1) the absence of potential conflict between the proposed lead plaintiff and the class members; and (2) the class representatives’ choice of counsel who is qualified, experienced and able to vigorously conduct the proposed litigation. *See Cree*, 219 F.R.D. at 372.

Here, the Retirement System is an adequate representative of the class because its interest in aggressively pursuing the claims against defendants are clearly aligned with the interests of the members of the class, who similarly suffered losses because of defendants’ false statements to the market. There is no antagonism between the Retirement System’s interests and those of the other members of the class. In addition, as demonstrated below, the Retirement System’s proposed Lead and Local Counsel are highly qualified, experienced and able to conduct this complex litigation in a professional manner. Thus, the Retirement System has made the *prima facie* showing of commonality, typicality and adequacy under Rule 23 for the purposes of this motion.

**IV. The Retirement System's Selection of Lead and Local Counsel Should Be Approved**

Pursuant to 15 U.S.C. §78u-4(a)(3)(B)(v), the lead plaintiff shall, subject to court approval, select and retain counsel to represent the class it seeks to represent. In that regard, the Retirement System, as the presumptively most adequate plaintiff, has selected Robbins Geller to serve as lead counsel and Craig C. Reilly to serve as local counsel, subject to this Court's approval. They possess extensive experience litigating securities class actions and have successfully prosecuted numerous securities fraud class actions on behalf of injured investors. Robbins Geller has been appointed as lead or co-lead counsel in landmark class actions, including *In re Enron Corp., Sec. Litig.*, 206 F.R.D. 427 (S.D. Tex. 2002). *See also* Reilly Aff., Exs. D and E.

**V. Conclusion**

For the foregoing reasons, the Retirement System respectfully requests the Court appoint it as Lead Plaintiff in this action pursuant to 15 U.S.C. §78u-4(a)(3)(B), and approve its selection of Robbins Geller as Lead Counsel and Craig C. Reilly as Local Counsel.

DATED: March 17, 2013

THE OFFICE OF CRAIG C. REILLY  
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