UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

JONNIE HOMYK, on behalf of themselves and others similarly situated,

Plaintiffs,

v.

CHEMOCENTRYX, INC. and THOMAS J. SCHALL,

Defendants.

Case No. Master File No. 4:21-cv-03343-JST and related cases, No. 4:21-cv-04357-JST, 4:22-cv-00499-JST

ORDER GRANTING MOTION TO CERTIFY CLASS

Re: ECF Nos. 74, 109, 111

Pending before the Court is Lead Plaintiff Indiana Retirement System's motion to certify a class (ECF No. 74). The Court will grant the motion.

I. BACKGROUND

Lead Plaintiff Indiana Public Retirement System brings this action individually and on behalf of all persons who purchased or otherwise acquired ChemoCentryx common stock between November 26, 2019, and May 6, 2021, inclusive ("Class Period"). Plaintiff alleges that ChemoCentryx and Dr. Schall, its President and Chief Executive Officer, (together, "Defendants") violated Sections 10(b) and 20(a) of the Securities Exchange Act of 1934 by making false and misleading statements and omissions about the safety, efficacy, and application for FDA approval of a proprietary vasculitis drug called avacopan, thereby artificially inflating the price of ChemoCentryx stock during the Class Period. Plaintiff also alleges that Dr. Schall is liable for insider trading under Section 20A of the Securities Exchange Act.

ChemoCentryx is a pharmaceutical company specializing in drugs designed to treat rare diseases. ECF. No. 47 ¶ 5 (Amended Consolidated Class Action Complaint ("CAC")). The company developed avacopan, which Defendants presented as a breakthrough therapy for the treatment of ANCA-associated vasculitis, a rare autoimmune disease. *Id.* The standard of care for treatment of ANCA-associated vasculitis involves a combination of steroids and immunosuppressants. *Id.* ¶ 48. Long-term steroid use presents safety risks for patients. *Id.* ¶ 1. Defendants described avacopan as a drug that would transform the standard of care for ANCA-associated vasculitis, in part by replacing steroid treatment. *Id.*

At the start of the Class Period, Defendants announced the results of a study called ADVOCATE, the Phase III trial of avacopan for the treatment of ANCA-associated vasculitis. *Id.* ¶ 10. The avacopan trial was designed to provide evidence to support ChemoCentryx's application for Food and Drug Administration ("FDA") approval of avacopan. *Id.* ¶ 2. Throughout the Class Period, Defendants stated that trial safety results showed that avacopan was safer than standard-of-care steroid therapy; that, in the trial, avacopan had demonstrated non-inferiority versus prednisone with respect to the primary endpoint of Birmingham Vasculitis Activity Score ("BVAS") remission at week 26 and superiority at week 52; that the study demonstrated that chronic steroids were not needed to achieve remission; and that communications with the FDA regarding the avacopan New Drug Application ("NDA") had been straightforward. *Id.*

However, in private communications with Defendants in 2016 and 2020, the FDA had expressed concerns about the trial's design and results. The FDA repeatedly told Defendants that ADVOCATE was "likely not adequate" to demonstrate, or even assess, whether using avacopan as a "replacement for glucocorticoids [] will provide an improved benefit-risk profile." *Id.* ¶ 86. Specifically, the FDA told Defendants that statistical non-inferiority would be inadequate to demonstrate that avacopan could replace the steroid-based standard of care, casting doubt on the sufficiency of ADVOCATE's key week 26 results. *Id.* ¶¶ 96–100. The FDA also warned Defendants that ADVOCATE's relapse data was unreliable because those analyses failed to preserve study randomization and were not adjusted for multiplicity.

Id. ¶¶ 101–03, 110-22. The FDA further indicated "that avacopan was efficacious only in the population who did not receive standard-of-care maintenance," raising questions about the meaning of the study's results. *Id.* ¶¶ 107–08.

Plaintiff alleges that Defendants knowingly withheld adverse facts from investors during the Class Period. For example, Plaintiff alleges that Defendants knew that steroid use was significant and widespread among avacopan patients enrolled in the trial. *Id.* ¶¶ 138–46. The majority of avacopan patients were prescribed the steroid prednisone during the trial to control their vasculitis, and ChemoCentryx considered such patients to have responded to avacopan in its analysis of trial data, despite their significant steroid use. *Id.* Plaintiff alleges that Defendants knew that these adverse facts undermined their public statements about the comparative safety and efficacy of avacopan and standard-of-care steroid therapy. *Id.* Plaintiff also alleges that Defendants knew of and failed to disclose serious adverse liver events, including an event meeting Hy's Law criteria and one occurring after rechallenge, that occurred during the trial. *Id.* ¶ 128. Further, Plaintiff alleges that ChemoCentryx did not disclose its failure to follow trial protocol in calculating remission results. When these results were later calculated in accordance with trial protocol, avacopan failed to achieve superiority to standard-of-care steroid therapy at week 52 by a statistically significant margin. *Id.* ¶¶ 130–37.

Plaintiff alleges that Defendants' misleading statements about the success of the avacopan trial and the prospective NDA submission artificially inflated ChemoCentryx's stock price during the Class Period, enriching both Dr. Schall and ChemoCentryx. During the 17-month Class Period, Dr. Schall sold more than 893,300 shares of ChemoCentryx stock – representing nearly 20% of his ChemoCentryx holdings – and earned proceeds of over $40.3 million. *Id.* ¶¶ 152–54.

The market learned the extent of the FDA's concerns about the trial in early May 2021. On May 4, the FDA published the Briefing Book and other materials (together, "Advisory Committee Materials") in advance of its Advisory Committee meeting. The concerns reflected in these documents mirrored many of the concerns the FDA had privately expressed to ChemoCentryx in 2016 and 2020. *Id.* ¶ 17. These materials further revealed, among other things, the extent of steroid use among avacopan patients in the trial. *Id.* In response to the release of the Advisory

Committee materials, ChemoCentryx's common stock dropped more than 45% in a single day. *Id.* ¶ 18. Analysts and investors expressed surprise at the scope of the FDA's criticism of the trial and the fact that ChemoCentryx had not disclosed the FDA's concerns. *Id.*

On May 6, 2021, the Advisory Committee held a public meeting to discuss avacopan. The Advisory Committee Meeting revealed that ADVOCATE's supposed "superiority" results were the product of violations of the prespecified trial rules. *Id.* ¶ 19. This meeting, Plaintiff alleges, also allowed investors to appreciate the significance of the previously concealed facts discussed in the FDA Briefing Book, including the clinical import of the ADVOCATE results. *Id.* Advisory Committee members were evenly split on the question of whether the drug should be approved, and those who voted in favor of approval argued its label should be limited – that is, that it should only be approved for use by a limited set of patients. The next day, ChemoCentryx common stock fell by approximately 62%. *Id.*

Overall, ChemoCentryx's share price fell 79% over four days, from $48.82 on May 3, 2021, to $10.46 on May 7, 2021. *Id.* ¶ 20. This caused massive losses to investors, including Plaintiff. The FDA ultimately approved avacopan for use only in conjunction with steroids and only by adult patients with severe active ANCA-associated vasculitis. *Id.* ¶¶ 21–23. The FDA also required ChemoCentryx to include warnings for liver toxicity on the avacopan label and ordered ChemoCentryx to conduct three post-marketing studies to evaluate liver toxicity. *Id.*

Multiple shareholders filed class action complaints, which were consolidated into a single action. ECF No. 32. Plaintiff filed the operative amended consolidated class action complaint on March 28, 2022. On February 23, 2023, the Court granted in part and denied in part Defendants' motion to dismiss. ECF No. 61. Plaintiff now moves for class certification under Rule 23(b)(3) of the Federal Rules of Civil Procedure and seeks the appointment of Lead Plaintiff as Class Representative and the appointment of Lead Counsel Bernstein Litowitz Berger & Grossmann LLP as Class Counsel.

II. LEGAL STANDARD

The party seeking class certification bears the burden of demonstrating by a preponderance of the evidence that all four requirements of Rule 23(a) and at least one of the requirements under

Rule 23(b) are met. *Wal-Mart Stores, Inc. v. Dukes*, 546 U.S. 338, 350-51 (2011). Rule 23(b)(3) requires the Court to find "that the questions of law or fact common to class members predominate over any questions affecting only individual members, and that a class action is superior to other available methods for fairly and efficiently adjudicating the controversy." Fed. R. Civ. P. 23(b)(3). Where "one or more of the central issues in the action are common to the class and can be said to predominate, the action may be considered proper under Rule 23(b)(3) even though other important matters will have to be tried separately, such as damages or some affirmative defenses peculiar to some individual class members." *Tyson Foods, Inc. v. Bouaphakeo*, 577 U.S. 442, 453 (2016) (citing C. Wright, A. Miller, & M. Kane, Federal Practice and Procedure § 1778, pp. 123–124 (3d ed. 2005)).

"Rule 23 grants courts no license to engage in free-ranging merits inquiries at the certification stage." *Amgen Inc. v. Conn. Ret. Plans & Tr. Funds*, 568 U.S. 455, 466 (2013). "Merits questions may be considered to the extent – but only to the extent – that they are relevant to determining whether the Rule 23 prerequisites for class certification are satisfied." *Id.* Courts "must take the substantive allegations of the complaint as true" but "need not accept conclusory or generic allegations regarding the suitability of the litigation for resolution through class action." *Keilholtz v. Lennox Hearth Prods. Inc.*, 268 F.R.D. 330, 335 (N.D. Cal. 2010) (citation omitted).

Plaintiff bears the burden to demonstrate that common questions will predominate over individual ones under Rule 23(b)(3) by a preponderance of the evidence before the Court may certify a class. *Olean Wholesale Grocery Coop., Inc. v. Bumble Bee Foods LLC*, 31 F.4th 651, 665 (9th Cir. 2022). The Court considers whether Plaintiff has demonstrated that "the same evidence will suffice for each member to make a prima facie showing or the issue is susceptible to generalized, class-wide proof," or if "members of a proposed class will need to present evidence that varies from member to member." *Tyson Foods*, 577 U.S. at 453.

III. DISCUSSION

A. Plaintiff Satisfies the Requirements of Rule 23(b)

Defendants do not challenge whether Plaintiff has met Rule 23(a)'s requirements or that a class action is superior to individual actions under Rule 23(b)(3). Accordingly, the Court turns to

whether common questions will predominate over individual ones under Rule 23(b)(3).

Here, whether the predominance requirement of Rule 23(b) is satisfied hinges on whether reliance can be resolved on a class-wide basis. Plaintiff seeks Rule 23(b)(3) class certification of claims alleged under Sections 10(b), 20(a), and 20A of the Securities Exchange Act, each of which require a showing of reliance on a materially untrue or misleading statement. To prove reliance on a class-wide basis, Plaintiff invokes the fraud-on-the-market presumption created in *Basic, Inc. v. Levinson* 485 U.S. 224 (1988). That presumption is based on the well-founded principle that "a public, material misrepresentation will distort the price of stock traded in an efficient market, and that anyone who purchases the stock at the market price may be considered to have done so in reliance on the misrepresentation." *Halliburton*, 573 U.S. at 283-84. To invoke the *Basic* presumption, Plaintiff must show: "(1) the alleged misrepresentations were publicly known, (2) that they were material, (3) that the stock traded in an efficient market, and (4) that the plaintiff traded the stock between the time when the misrepresentations were made and when the truth was revealed." *Id.* at 277–78. When the presumption applies, investors do not need to demonstrate individual reliance. *Basic*, 485 U.S. at 241–47.

Defendants attempt to rebut this presumption by showing "that the misrepresentation in fact did not lead to a distortion of price." *Id.* at 248. The Supreme Court recently clarified that "*all* probative evidence"—"qualitative as well as quantitative"—including "a good dose of common sense'" is relevant "to assessing price impact at class certification." *Goldman Sachs Group v. Arkansas Teacher Retirement System*, 141 S. Ct. 1951, 1960 (2021) (emphasis in original). "Any showing that severs the link between the alleged misrepresentation and either the price received (or paid) by the plaintiff, or his decision to trade at a fair market price, will be sufficient to rebut the presumption of reliance." *Basic*, 485 U.S. at 248. "[A] court cannot conclude that Rule 23's requirements are satisfied without considering all evidence relevant to price impact," "regardless [of] whether that evidence overlaps with materiality or any other merits issue." *Goldman*, 141 S. Ct. at 1961. "The district court's task is simply to assess all the evidence of price impact—direct and indirect—and determine whether it is more likely than not that the alleged misrepresentations had a price impact." *Id.* at 1963. "The district court must use the

evidence to decide the price impact issue while resisting the temptation to draw what may be obvious inferences for the closely related issues that must be left for the merits." *Id.* at 1961 n.2 (citation and quotation omitted). The relevant "inquiry is whether Defendants have proven a complete lack of price impact during the Class Period, not whether the stock price decline following individual corrective disclosures was caused by the alleged misrepresentations, which is a loss causation analysis not appropriate at this stage." *Bos. Ret. Sys. v. Alexion Pharms., Inc.*, 2023 WL 2932485, at *12 (D. Conn. Apr. 13, 2023).

In response to Defendants' attempt to rebut the *Basic* presumption, Plaintiff first points to a "front end" price impact in which misstatements caused or maintained undue inflation in Chemocentryx's stock price. *See In re Apple Inc. Sec. Litig.*, 2022 WL 354785, at *7 (N.D. Cal. Feb. 4, 2022). Plaintiff argues that on November 25, 2019, Defendants' disclosure of the top-line reading of the ADVOCATE results misled investors to believe that the trial demonstrated that avacopan is a safer and equally effective alternative to the steroid-based standard of care. Plaintiff alleges that Defendants concealed, among other things, the FDA's concerns about ADVOCATE's and issues with the ADVOCATE trial later disclosed in the Advisory Committee Materials. ChemoCentryx's common stock price more than tripled on November 26, 2019 the day after the allegedly misleading disclosure, an increase which Defendants' expert finds statistically significant. ECF. No. 101-6 at 47:9-21 ("Ferrell Deposition") (this increase was "absolutely" statistically significant). Plaintiff contends this statistically significant tripling in price provides powerful evidence of a price impact.

Plaintiff also points to "back end" price impact, in which the stock price declines because of a corrective disclosure. *See In re Apple Inc. Sec. Litig.*, 2022 WL 354785, at *7. Plaintiff argues that alleged misrepresentations prior to the May 2021 FDA disclosures further artificially inflated the stock. ChemoCentryx's common stock price fell by 45% on May 5, a day after the FDA published its Advisory Committee Materials. CAC ¶ 18. It fell a further 62% on May 7, a day after the FDA Advisory Committee Meeting. *Id.* ¶ 19. Defendants' expert concedes these drops are statistically significant. *See* Ferrell Deposition at 48:20-49:23, 52:1-53:14; ECF. No 88-1 ¶ 75 (Ferrell Report). Plaintiff contends that these drops provide clear "evidence that the

original misrepresentation did, in fact, affect the stock price." *See In re Mattel, Inc. Sec. Litig.*, No. 219CV10860MCSPLA, 2021 WL 4704578, at *5 (C.D. Cal. Oct. 6, 2021).

Defendants argue that they can "sever" the links between both the front-end and back-end price impacts and the related alleged misrepresentations. Accordingly, the Court analyzes two categories of alleged misrepresentations: those relating to undisclosed FDA warnings and those related to other issues with the trial or results disclosed by the FDA in May 2021.

1. FDA Warnings

As noted, the FDA privately raised a series of concerns with Defendants about the ADVOCATE trial. To rebut the presumption of price impact, Defendants contend that these undisclosed communications with the FDA were routine and straightforward and therefore could not have impacted the stock price. Although the Court must analyze all evidence and use a "good dose of common sense" to analyze price impact, *see Goldman*, 141 S. Ct. at 1960, this argument borders on a procedurally improper attack on falsity and materiality. *See Purple Mtn. Trust v. Wells Fargo & Co.*, 2022 WL 3357835, at *6 (N.D. Cal. 2022) (citing *Basic*, 485 U.S. at 242 ("falsity or misleading nature of the [alleged] … statements" is a "common question")). In any event, it belies "common sense" to conclude that the FDA concerns described above were so "straightforward" that they could not have had a price impact. Indeed, the FDA notes that many of the concerns raised before the FDA approved the trial resurfaced in the FDA's Briefing Book and Advisory Committee Materials in May 2021.[1] For example, during Defendants' November 1, 2016 meeting with the FDA, the FDA warned that secondary and other safety endpoints did not Defendants' support safety claims. *See* CAC ¶ 169 (noting that "the proposed study is likely not adequate to support such safety comparisons"). The FDA eventually disclosed the same concern in the Advisory Committee Materials, noting that "[o]verall, the secondary endpoints [in ADVOCATE] do not provide additional support of a clinically meaningful treatment benefit for

[1] The FDA noted that "the review team has identified several areas of concern, raising uncertainties about the interpretability of [the ADVOCATE] data and the clinical meaningfulness of these results," and that "during the avacopan clinical development, including the phase 3 design stages, the Agency communicated many of the concerns with the design of" ADVOCATE directly to ChemoCentryx. CAC ¶ 85.

avacopan"). *Id.* In the same meeting, the FDA also registered "concerns regarding the inclusion of [quality of life endpoints] . . . as secondary endpoints." *Id.* The FDA further noted that "[y]ou have not provided adequate data that either endpoint is a validated measure in vasculitis" and that "[t]here does not appear to be adequate data to support the use of [renal function] endpoints to support long-term outcomes in vasculitis." *Id.* In the Briefing Book, the FDA eventually disclosed that ADVOCATE's quality of life results did not support avacopan's safety and efficacy because they "are general quality of life instruments, not specific to vasculitis." *Id.* ¶ 158. This evidence also undermines Defendants' claim that the May 2021 disclosures were "new information" or that the concerns raised by the FDA were all "mooted" by the FDA's approval of the ADVOCATE trial.

Moreover, to the extent that Defendants invoke the "truth-on-the-market" defense as to the disclosure of the FDA's concerns, the Court finds that Defendants did not disclose the fact that the FDA had raised the numerous concerns described above.

Accordingly, the Court finds that Defendants have not established a lack of price impact for alleged misrepresentations that were misleading due to a failure to disclose the FDA's privately raised concerns. *Alexion Pharms., Inc.*, 2023 WL 2932485, at *12 (The relevant "inquiry is whether Defendants have proven a complete lack of price impact during the Class Period"). On the front-end, Defendants failed to sever the link between these alleged misrepresentations and the statistically significant inflation in Chemocentrx's stock price following the November 25 topline reading of the ADVOCATE trial. On the back-end, Defendants failed to sever the link between the corrective disclosures on May 4, 2021 and May 6, 2021 and the statistically significant price impacts on May 5, 2021 and May 7, 2021. Accordingly, Defendants' attempts to rebut the *Basic* presumption fail. *See Mattel*, 2021 WL 4704578, at *5 ("A statistically significant price adjustment following a corrective disclosure is evidence that the original misrepresentation did, in fact, affect the stock price.").

2. Other Concerns Disclosed by the FDA in May 2021

Defendants also contend that they publicly disclosed details about the approved ADVOCATE trial design and results that are relevant to the alleged misrepresentations. Some of

these disclosures occurred before the Class Period, which would render any price impact from the related alleged misrepresentations meaningless. Other disclosures occurred during the Class Period without any price impact, which Defendants argue presents dispositive evidence that this information was not important enough to impact ChemoCentryx's share price. The Court analyzes the relevant alleged misrepresentations and key examples of Defendants' alleged disclosures, finding that Defendants failed to establish a lack of price impact.

i. Alleged Misrepresentations Concerning Steroid Use

Plaintiff alleges that Defendants failed to disclose the extent and nature of steroid use among trial participants. Specifically, Plaintiff alleges that Defendants failed to disclose that the majority of avacopan patients were prescribed steroids to control their vasculitis during the trial and that ChemoCentryx included these patients in its remission analysis.

Defendants contend that an October 12, 2019 article in the Journal of Medical Internet Research ("JMIR Article") disclosed facts relevant to this misrepresentation without price impact. Namely, the JMIR Article disclosed that after being tapered off steroids at the beginning of the trial, patients were permitted to receive non-study supplied steroids for reasons such as adrenal insufficiency or worsening of the disease. Ferrell Report ¶ 55. However, this disclosure omits key details alleged in the CAC. For example, the JMIR Article fails to disclose any of the following: that steroid use "was similar between the prednisone and avacopan groups" following the conclusion of the study-mandated prednisone taper; that 64% of avacopan patients were prescribed prednisone specifically because steroids were needed to treat and control their vasculitis during the trial; or that Defendants counted remitted avacopan patients as "responders" to avacopan "monotherapy," even if they required significant treatment with out-of-study steroids in order to manage their disease. CAC ¶ 396.

ii. Alleged Misrepresentations Concerning Subgroups

Plaintiff alleges that Defendants made misleading statements about relevant subgroup data in the trial design and results. In ADVOCATE, some patients received cyclophosphamide and others received rituximab. Plaintiff alleges that while Defendants asserted that avacopan was superior to standard of care therapy at week 52, the trial results demonstrated that avacopan was

not superior to steroids plus cyclophosphamide. Instead, avacopan demonstrated a treatment effect only against patients taking steroids plus rituximab. In other words, Plaintiff alleges that Defendants touted that they had achieved superiority at week 52 even though avacopan failed to achieved superiority at week 26 or 52 with the patients taking cyclophosphamide – the only subgroup of steroid patients actually receiving "standard of care" maintenance therapy. The FDA later noted in the Advisory Committee Materials that this analysis "rais[es] questions about the adequacy of the comparisons and clinical meaningfulness of the avacopan effect at Week 52." CAC ¶¶ 107, 165.

Defendants contend that the JMIR Article disclosed "the dosing information for the two immunosuppressant subgroups (i.e., cyclophosphamide and rituximab)" and that the "results would be analyzed according to which immunosuppressant was used." Because this disclosure omits the relevant implications of these results (as later explained by the FDA), the Court finds that the JMIR Article did not disclose facts relevant to the alleged misrepresentations that negate any price impact flowing from this alleged misrepresentation.

iii. Alleged Misrepresentations Concerning Safety Profile and Serious Adverse Liver Events

Defendants claimed avacopan was safer than steroid-based therapy with a superior "safety profile" with "fewer adverse events and fewer serious adverse events, a very acceptable safety profile to go forward we believe and apply for approval in this indication." CAC ¶ 10. Plaintiff alleges that Defendants made these representations with the knowledge that two patients suffered adverse liver events, including an event meeting Hy's Law criteria and one occurring after rechallenge.

Defendants contend that the February 18, 2021 New England Journal of Medicine Article ("NEJM Article") disclosed the relevant information relating to drug safety during the Class Period without price impact. Specifically, the NEJM Article disclosed that "nine patients in the avacopan group and six in the prednisone group had a serious adverse event of an abnormality on liver function testing. All events resolved with the withdrawal of trial medication and other potentially hepatotoxic drugs" and that "[l]onger trials are required to determine the durability and

safety of avacopan in patients with ANCA-associated vasculitis." Ferrell Report ¶ 19. Because the NEJM Article does not disclose that one patient potentially met Hy's Law criteria and another faced liver-related issues after rechallenge, the Court finds the facts relevant to the alleged misrepresentation were not disclosed.

* * *

Accordingly, Defendants did not meet their burden to sever the link between the price impact and the misrepresentation. Because the *Basic* presumption applies, Plaintiff will not need to show that individual class members were aware of, and relied upon, Defendants' alleged misrepresentations. Instead, class members may be presumed to have relied on the integrity of Chemocentryx's stock price, and reliance can be resolved in one stroke.

B. Plaintiff's Section 20A Claims Are Suitable for Class Certification

Defendants separately challenge certification of the Section 20A claims asserted against Defendant Schall. First, Defendants argue that Plaintiff is required to request the certification of a subclass to plead this claim. Defendants cite no authority for this requirement, and the Court is aware of none. Instead, Courts generally have found it unnecessary to create a sub-class for Section 20A claims. *SEB Inv. Mgmt. AB v. Align Tech., Inc.*, 335 F.R.D. 276, 286 (N.D. Cal. 2020); *Hodges v. Akeena Solar, Inc.*, 274 F.R.D. 259, 272 (N.D. Cal. 2011); *see also* 3 Newberg on Class Actions § 7:30 (6th ed.)) (although "plaintiffs may subdivide the class . . . in their certification motion . . . they are not required to do so").

Second, Defendants contend that Plaintiff fails to explain how it can establish that the class traded "contemporaneous[ly]" with Dr. Schall, as required under Section 20A. *SEB Inv. Mgmt. AB*, 335 F.R.D. 276, 286. However, the putative class includes those who "purchased shares of ChemoCentryx common stock *contemporaneously* with the sale of ChemoCentryx common stock by Defendant Schall." CAC ¶ 467 (emphasis added). Here, "plaintiff is a member of the class as the operative complaint defines it." *SEB Inv. Mgmt.* 335 F.R.D. 276, 286 (N.D. Cal. 2020). Because the individual questions involved in determining whether a putative class member traded contemporaneously with Dr. Schall are "no more difficult to resolve than other issues routinely found insufficient to derail certification in securities class actions," the Court rejects this

argument. *Id.*

Third, Defendants contend that Plaintiff fails to establish class-wide reliance under Section 20A. Section 20A requires (i) "contemporaneous trading," and (ii) a "predicate violation" under Section 10(b)). *See Johnson v. Aljian*, 394 F. Supp. 2d 1184, 1196 (C.D. Cal. 2004) *aff'd in relevant part*, 490 F.3d 778 (9th Cir. 2007), *cert. denied*, 552 U.S. 1257 (2008). The Court has found certification of the predicate Section 10(b) claim appropriate, and has found that the contemporaneity requirement does not bar certification. The Court therefore finds certification of the Section 20A violation certification is appropriate.

CONCLUSION

For the foregoing reasons, the Court **GRANTS** Plaintiff's motion for class certification and certifies a class of investors defined as:

> All persons who purchased or otherwise acquired the common stock of ChemoCentryx, Inc. between November 26, 2019 and May 6, 2021, inclusive, and were damaged thereby. Excluded from the Class are Defendants and their immediate families, the officers and directors of the Company at all relevant times, members of their immediate families, and Defendants' legal representatives, heirs, successors, or assigns, and any entity in which Defendants have or had a controlling interest.

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The Court further **ORDERS** that Lead Plaintiff is appointed as Class Representative; and **ORDERS** that Lead Counsel Bernstein Litowitz Berger & Grossmann LLP shall serve as Class Counsel.[2]

IT IS SO ORDERED.

Dated: March 6, 2024

JON S. TIGAR
United States District Judge

[2] Chemocentryx objects to certain evidence cited in Plaintiff's reply brief and requests to file a sur-reply. ECF Nos. 109, 111. The arguments at ECF pages 17–18 of Plaintiff's reply brief were not new and the Court denies the request to file a sur-reply as to those arguments. The Court has not considered, for purposes of this motion, Plaintiff's specific arguments concerning the Data Monitoring Committee, the testimony of Drs. Glassock and Maddrey, or the rebuttal report of Plaintiff's expert. Accordingly, Defendant's motion to file sur-reply, ECF No. 111, is denied and its objections to Plaintiff's reply evidence, ECF No. 109, are overruled.