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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

CITY OF PONTIAC POLICE AND FIRE
RETIREMENT SYSTEM, Individually and on
Behalf of All Others Similarly Situated,

Plaintiff,

vs.

ZOOMINFO TECHNOLOGIES INC., HENRY
SCHUCK, CAMERON HYZER, TA
ASSOCIATES MANAGEMENT, LP, THE
CARLYLE GROUP, INC., and DO
HOLDINGS (WA), LLC,

Defendants.

No. 3:24-CV-05739-TMC

CLASS ACTION

MOTION FOR APPOINTMENT AS LEAD
PLAINTIFF AND APPROVAL OF
SELECTION OF LEAD COUNSEL

NOTE ON MOTION CALENDAR:
November 25, 2024

ORAL ARGUMENT REQUESTED

MOTION FOR APPOINTMENT AS LEAD
PLAINTIFF, AND APPROVAL OF SELECTION
OF LEAD COUNSEL (3:24-cv-05739-TMC)

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1 **I. INTRODUCTION**

2 The above-captioned securities class action (the “Action”) alleges that ZoomInfo
 3 Technologies, Inc. (“ZoomInfo” or the “Company”), and certain of its executive officers and/or
 4 directors (together, “Defendants”), violated Sections 10(b) and 20(a) of the Securities Exchange Act
 5 of 1934 (the “Exchange Act”), and SEC Rule 10b-5 promulgated thereunder. The Action has been
 6 brought on behalf of all persons who purchased ZoomInfo Class A common stock between November
 7 10, 2020 and August 5, 2024, both dates inclusive (the “Class Period”), and were damaged thereby
 8 (the “Class”).

9 Under the Private Securities Litigation Reform Act of 1995 (“PSLRA”), this Court is
 10 instructed to appoint the “most adequate plaintiff” to serve as Lead Plaintiff. 15 U.S.C. § 78u-
 11 4(a)(3)(B)(i). In that regard, the Court is required to determine which member of the Class has the
 12 “largest financial interest” in the relief sought in this litigation, and also whether that movant has
 13 made a *prima facie* showing that it is a typical and adequate Class representative under Rule 23 of
 14 the Federal Rules of Civil Procedure (“Rule 23”). *See* 15 U.S.C. § 78u-4(a)(3)(B)(iii)(I).

15 State Teachers Retirement System of Ohio and Ohio Public Employees Retirement System
 16 (the “Ohio Funds”) respectfully submit that they should be appointed Lead Plaintiff because they
 17 have the “largest financial interest” in this litigation and have made the requisite showing of typicality
 18 and adequacy required by the standards of the PSLRA. As set forth herein, the Ohio Funds have
 19 incurred \$75,942,214 in losses as calculated on a last-in-first-out (“LIFO”) basis because of their
 20 transactions in ZoomInfo Class A common stock during the Class Period.¹ In light of this significant
 21 loss, the Ohio Funds have a substantial financial interest in the relief sought by this litigation – an
 22 interest believed to be greater than that of any other qualified movant.

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 24
 25 ¹ A copy of the Certifications of the Ohio Funds (“Certification”) are attached as Exhibit A to the
 26 Declaration of Bradley S. Keller (“Keller Decl.”). The Certifications set forth all of the Ohio Funds’
 27 relevant transactions in ZoomInfo Class A common stock during the Class Period. In addition, a table
 28 reflecting the calculation of financial losses sustained by the Ohio Funds on their relevant Class Period
 transactions in ZoomInfo Class A common stock (“Loss Analysis”) is attached as Exhibit B to the
 Keller Decl.

1 In addition to asserting a substantial financial interest in this litigation, the Ohio Funds also
2 meet the typicality and adequacy requirements of Rule 23 because: (i) their claims arise from the
3 same course of events as those of the other Class members, (ii) they rely on similar legal theories to
4 prove Defendants' liability, and (iii) they have retained experienced counsel and are committed to
5 vigorously prosecuting the Action. Furthermore, the PSLRA's legislative history shows that large,
6 sophisticated institutional investors like the Ohio Funds are precisely the type of investors that
7 Congress intended to empower to lead securities class action litigation. *See* H.R. Conf. Rep. No. 104-
8 369, at 34 (1995), *reprinted in* 1995 U.S.C.C.A.N. 730, 733; S. Rep. No. 104-98, at 6 (1995),
9 *reprinted in* 1995 U.S.C.C.A.N. 679, 685.

10 Finally, pursuant to the PSLRA, the Ohio Funds respectfully request that the Court approve
11 their selection of Labaton Keller Sucharow ("Labaton") as Lead Counsel for the Class and Byrnes
12 Keller Cromwell ("Byrnes Keller") as Liaison Counsel for the Class. *See* 15 U.S.C. § 78u-
13 4(a)(3)(B)(v) ("[T]he most adequate plaintiff shall, subject to the approval of the court, select and
14 retain counsel to represent the class."). Labaton is a nationally recognized securities class action firm
15 that has recovered billions of dollars for the benefit of injured investors and has the expertise and
16 resources necessary to handle litigation of this complexity and scale. Accordingly, the Ohio Funds
17 respectfully request that the Court appoint them as Lead Plaintiff and otherwise grant this motion.

18 Therefore, the Ohio Funds, by and through their undersigned counsel, hereby respectfully
19 move this Court pursuant to Section 21D(a)(3) of the Securities Exchange Act of 1934, 15 U.S.C. §
20 78u-4(a)(3), as amended by the Private Securities Litigation Reform Act of 1995, for the entry of an
21 Order: (1) appointing the Ohio Funds as Lead Plaintiff in the above-captioned action on behalf of a
22 class consisting of all purchasers of ZoomInfo Class A common stock between November 10, 2020
23 and August 5, 2024, both dates inclusive; and (2) approving the Ohio Funds' selection of Labaton as
24 Lead Counsel and Byrnes Keller as Liaison Counsel for the Class; and (3) granting such other and
25 further relief as the Court may deem just and proper. In support of their motion, the Ohio Funds
26 submit herewith the Declaration of Bradley S. Keller and all exhibits thereto.

1 **II. SUMMARY OF THE ACTION**

2 ZoomInfo is a software and data company that provides customer contact and business
3 information to its clients. The Company’s Class A common stock trades on the NASDAQ Global
4 Select Market (“NASDAQ”) under the ticker ZI.

5 The Action alleges that, defendants throughout the Class Period made false and/or misleading
6 statements and concealed: (i) that ZoomInfo’s financial and operational results during the Class
7 Period had been temporarily inflated by the ephemeral effects of the COVID-19 pandemic, which had
8 pulled-forward demand for the Company’s database of digital contact information; (ii) that material
9 portions of ZoomInfo’s existing customer base were attempting to either substantially reduce their
10 use of the Company’s product or abandon it altogether; (iii) that ZoomInfo had used manipulative
11 and coercive auto-renew policies and threats of litigation to force customers into remaining with the
12 Company for an additional contractual term even though such customers did not want to; (iv) that
13 ZoomInfo’s coercive customer retention tactics had materially damaged the Company’s customer
14 relationships, client franchise, and competitive advantages, and created a hidden demand cliff for
15 customer contract renewals in future periods; and (v) that as a result of (i)–(iv), ZoomInfo’s reported
16 revenues, operating income, and customer and retention metrics were materially overstated.

17 On November 1, 2022, ZoomInfo issued a press release announcing the Company’s financial
18 results for its third fiscal quarter ending September 30, 2022. During the corresponding conference
19 call, defendant Hyzer revealed that ZoomInfo had experienced increased “scrutiny” by customers
20 during the contract renewal process, which negatively impacted ZoomInfo’s financial results in the
21 quarter. On this news, the price of ZoomInfo Class A common stock fell from \$43.50 per share on
22 November 1, 2022, to \$30.81 per share on November 2, 2022, or approximately 29%.

23 Next, on November 16, 2022, defendant Hyzer participated in an investor conference hosted
24 by RBC Capital Markets. During the conference, defendant Hyzer revealed that intense customer
25 scrutiny during the contract renewal process had continued into the fourth quarter, which would
26 negatively impact the Company’s ability to grow its revenues in fiscal year 2023. On this news, the
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1 price of ZoomInfo Class A common stock fell from \$31.69 per share on November 15, 2022, to
2 \$26.17 per share on November 17, 2022, or approximately 17%.

3 Then, on July 31, 2023, ZoomInfo held a conference call to discuss its financial results for its
4 second fiscal quarter ending June 30, 2023. During the conference call, defendant Hyzer further
5 revealed that customer cancellations had increased “modestly” in the quarter and that customers had
6 been renewing for less than the market had been conditioned to expect. Defendant Hyzer also
7 disclosed that customers who had already reduced their contract sizes during renewals in the prior
8 year were now renewing for even less. On this news, the price of ZoomInfo Class A common stock
9 fell from \$25.57 per share on July 31, 2023, to \$18.40 per share on August 2, 2023, or approximately
10 28%.

11 Next, on May 7, 2024, ZoomInfo held a conference call to discuss its financial results for its
12 first fiscal quarter ending March 31, 2024. During the conference call, defendant Hyzer revealed that
13 ZoomInfo had a large pool of small business customers that exhibited “weakness” during renewals in
14 the period. Defendant Hyzer further revealed that new business from small business customers had
15 also declined in the quarter as the Company became “more selective” on deals made within the cohort.
16 On this news, the price of ZoomInfo Class A common stock fell from \$16.02 per share on May 7,
17 2024, to \$12.14 per share on May 8, 2024, or approximately 24%.

18 Finally, on August 5, 2024, ZoomInfo issued a press release announcing the Company’s
19 financial results for its second fiscal quarter ending June 30, 2024. The press release revealed that
20 ZoomInfo was incurring a \$33 million charge due to non-payments from customers and had been
21 forced to implement a “new business risk model” to reduce write-offs. During the corresponding
22 conference call, defendant Hyzer revealed that the \$33 million charge incurred in the quarter related
23 to revenues that were previously recognized in fiscal 2023, casting doubt on tens of millions of dollars
24 in revenues and the legitimacy and quality of potentially thousands of ZoomInfo customers. In a
25 subsequently issued press release published that same day, the Company further revealed that
26 defendant Hyzer was resigning from the Company. On this news, the price of ZoomInfo Class A
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1 common stock fell from \$9.80 per share on August 5, 2024, to \$8.01 per share on August 6, 2024, or
2 approximately 18%.

3 As a result of defendants’ wrongful acts and omissions, and the decline in the market value of
4 the Company’s Class A common stock when the truth was disclosed, the Ohio Funds and other class
5 members have suffered significant losses and damages.

6 **III. ARGUMENT**

7 **A. The Ohio Funds Should Be Appointed Lead Plaintiff**

8 The Ohio Funds respectfully submit that they should be appointed Lead Plaintiff because they
9 filed the instant motion in a timely manner, have a substantial financial interest in this litigation, and
10 satisfy the typicality and adequacy requirements of Rule 23.

11 **1. The PSLRA Standard for Appointing Lead Plaintiff**

12 The PSLRA provides a straightforward, sequential procedure for selecting a lead plaintiff for
13 “each private action arising under [the Exchange Act] that is brought as a plaintiff class action
14 pursuant to the Federal Rules of Civil Procedure.” *See* 15 U.S.C. § 78u-4(a)(1); *see also* 15 U.S.C. §
15 78u-4(a)(3)(B) (setting forth procedure for selecting lead plaintiff). First, Section 21D(a)(3)(A)(i) of
16 the Exchange Act, as amended by the PSLRA, specifies that:

17 Not later than 20 days after the date on which the complaint is filed, the
18 plaintiff or plaintiffs shall cause to be published, in a widely circulated
19 national business-oriented publication or wire service, a notice advising
members of the purported plaintiff class –

20 (I) of the pendency of the action, the claims asserted therein, and the
purported class period; and

21 (II) that, not later than 60 days after the date on which the notice is
published, any member of the purported class may move the court to
22 serve as lead plaintiff of the purported class.

23 15 U.S.C. § 78u-4(a)(3)(A)(i).

24 Next, pursuant to the PSLRA, a court is to consider any motion made by class members to
25 serve as Lead Plaintiff and appoint the “most adequate plaintiff.” 15 U.S.C. § 78u-4(a)(3)(B)(i). In
26 adjudicating a lead plaintiff motion, a court shall adopt a presumption that the “most adequate
27 plaintiff” is the person or group of persons who: (i) filed a complaint or timely filed a motion to serve

1 as Lead Plaintiff, (ii) has the largest financial interest in the relief sought by the class, and (iii) who
 2 otherwise satisfies the requirements of Rule 23. *See* 15 U.S.C. § 78u-4(a)(3)(B)(iii)(I). This
 3 presumption may be rebutted only by “proof” that the presumptively most adequate plaintiff “will not
 4 fairly and adequately protect the interests of the class” or “is subject to unique defenses that render
 5 such plaintiff incapable of adequately representing the class.” 15 U.S.C. § 78u-4(a)(3)(B)(iii)(II).
 6 Under the framework established by the PSLRA, the Ohio Funds are the most adequate plaintiff and
 7 should be appointed Lead Plaintiff.

8 **B. The Ohio Funds Are the “Most Adequate Plaintiff”**

9 **1. The Ohio Funds’ Motion Is Timely**

10 The Ohio Funds filed this motion to serve as Lead Plaintiff in a timely manner. Pursuant to
 11 15 U.S.C. § 78u-4(a)(3)(A)(i), notice of the action was published on *Globe Newswire*, a widely-
 12 circulated, national, business-oriented news wire service, on September 4, 2024, establishing a
 13 November 4, 2024 deadline for lead plaintiff motions. *See* Keller Decl. Ex. C. The Ohio Funds filed
 14 their motion seeking appointment as Lead Plaintiff within this deadline and thus have satisfied the
 15 procedural requirements of the PSLRA.

16 **2. The Ohio Funds Have a Substantial Financial Interest**

17 The PSLRA requires a court to adopt the rebuttable presumption that “the most adequate
 18 plaintiff . . . is the person or group of persons that . . . has the largest financial interest in the relief
 19 sought by the class.” 15 U.S.C. § 78u-4(a)(3)(B)(iii). During the Class Period, the Ohio Funds
 20 suffered approximately \$75,942,214 in losses. *See* Keller Decl., Exs. A, B. Accordingly, the Ohio
 21 Funds have a substantial financial interest as a qualified movant seeking Lead Plaintiff status and are
 22 the presumptive “most adequate plaintiff.” *See* 15 U.S.C. § 78u-4(a)(3)(B)(iii).

23 **3. The Ohio Funds Satisfy the Rule 23 Typicality and Adequacy**
 24 **Requirements**

25 In addition to possessing a significant financial interest, a lead plaintiff must also “otherwise
 26 satisf[y] the requirements of Rule 23 of the Federal Rules of Civil Procedure.” 15 U.S.C. §78u-
 27 4(a)(3)(B)(iii)(I)(cc). “On a motion to serve as Lead Plaintiff, ‘the inquiry shall focus solely on the

1 “typicality” and “adequacy” aspects of Rule 23.” *Frias v. Dendreon Corp.*, 835 F. Supp. 2d 1067,
2 1075 (W.D. Wash. 2011) (quoting *In re Cavanaugh*, 306 F.3d 726, 730 n.5, 732 (9th Cir. 2002)).

3 **a. The Ohio Funds’ Claims Are Typical of the Class**

4 “‘Typicality’ in the class action context is measured by whether the applicant’s claims arise
5 from the same event or course of conduct which gave rise to the claims of the class members, and are
6 founded on the same legal theory.’” *Id.* (citation omitted). Like all members of the Class, the Ohio
7 Funds allege that Defendants made material misstatements and omissions regarding the Company’s
8 business, operations, and liabilities. The Ohio Funds purchased, as did all Class members, ZoomInfo
9 Class A common stock in reliance on Defendants’ alleged misstatements and omissions and were
10 damaged thereby. Because the Ohio Funds’ claims arise out of the same conduct as do the claims of
11 other class members, the typicality requirement is satisfied.

12 **b. The Ohio Funds Satisfy the Adequacy Requirement of Rule 23**

13 The Ohio Funds likewise satisfy the adequacy requirement of Rule 23. To “‘satisfy the FRCP
14 23 conditions of “adequacy,” it must be demonstrated that: (1) the proposed lead plaintiff’s interests
15 are in common with, and not antagonistic to, those of the class; and (2) proposed lead plaintiff’s
16 counsel are qualified, experienced and generally able to conduct the litigation.’” *Frias v. Dendreon*
17 *Corp.* 835 F. Supp. 2d at 1076 (citation omitted).

18 The Ohio Funds will fairly and adequately represent the interests of the proposed Class. The
19 Ohio Funds unquestionably have resources sufficient to pursue the Action to a successful conclusion
20 and their significant financial interests ensure vigorous advocacy if they are appointed Lead Plaintiff.
21 The Ohio Funds have also retained counsel highly experienced in prosecuting securities class actions
22 vigorously and efficiently, *see infra* Section III.C, and timely submitted their choice to the Court for
23 approval, in accordance with the PSLRA. *See* 15 U.S.C. §§ 78u-4(a)(3)(A)(i)(II) and (B)(v). Finally,
24 no antagonism exists between the Ohio Funds’ interests and those of the absent Class members;
25 rather, the interests of the Ohio Funds and Class members are squarely aligned. There is no proof
26 that the Ohio Funds are “subject to unique defenses that render such plaintiff incapable of representing
27

1 the class,” because no such proof exists. 15 U.S.C. § 78u-4(a)(3)(B)(iii)(II). Accordingly, the Ohio
2 Funds satisfy the adequacy requirement.

3 **4. The Ohio Funds Are Precisely the Type of Lead Plaintiff Congress**
4 **Envision When It Passed the PSLRA**

5 In addition to satisfying the requirements of Rule 23, the Ohio Funds—sophisticated
6 institutional investors—are precisely the type of investors Congress envisioned, through the
7 enactment of the PSLRA, to encourage them to assume a more prominent role in securities litigation.
8 *See* H.R. Conf. Rep. No. 104-369, at 34 (1995), *reprinted in* 1995 U.S.C.C.A.N. 730, 733 (“The
9 Conference Committee believes that increasing the role of institutional investors in class actions will
10 ultimately benefit shareholders and assist courts by improving the quality of representation in
11 securities class actions.”). Congress reasoned that increasing the role of institutional investors, which
12 typically have a large financial stake in the outcome of the litigation, would be beneficial because
13 institutional investors with a large financial stake are more apt to effectively manage complex
14 securities litigation. *See id.* at 34-35, *reprinted in* 1995 U.S.C.C.A.N. at 733-34.

15 And, as institutional investors that have previously been appointed as a lead plaintiff in
16 securities fraud class actions (*see, e.g. In re Am. Int’l Grp., Inc. Sec. Litig.*, No. 04-cv-08141
17 (S.D.N.Y) (\$1 billion recovery obtained in securities fraud class action in which the Ohio Funds
18 served as lead plaintiff)), the Ohio Funds are precisely the type of investors whose participation in
19 securities class actions Congress sought to encourage through the enactment of the PSLRA. *See In*
20 *re Cendant Corp. Litig.*, 264 F.3d 201, 273 (3d Cir. 2001) (“Both the Conference Committee Report
21 and the Senate Report state that the purpose of the legislation was to encourage institutional investors
22 to serve as lead plaintiff, predicting that their involvement would significantly benefit absent class
23 members.”); *Dendreon Corp.*, 835 F. Supp. 2d at 1076 (finding that “a sophisticated institutional
24 investor . . . is ‘exactly the type of lead plaintiff envisions by Congress when it instituted the lead
25 plaintiff requirements.’”); *Studen v. Funko, Inc.*, 2023 WL 5306005, at *4 (W.D. Wash. Aug. 17,
26 2023) (appointing a pension fund lead plaintiff in part because of its “status as

1 an institutional investor”). Accordingly, the Ohio Funds have the sophistication and resources
2 necessary to effectively litigate this matter and supervise Class counsel.

3 **C. The Ohio Funds’ Selection of Lead Counsel Merits Approval**

4 The PSLRA vests authority in the lead plaintiff to select and retain lead counsel for the class,
5 subject to the court’s approval. *See* 15 U.S.C. § 78u-4(a)(3)(B)(v). As such, this Court should not
6 disturb the lead plaintiff’s choice of counsel unless necessary to “protect the interests of the class.”
7 15 U.S.C. §78u-4(a)(3)(B)(iii)(II)(aa); *see also In re Cohen v. U.S. District Court*, 586 F.3d 703, 712
8 (9th Cir. 2009) (“[I]f the lead plaintiff has made a reasonable choice of counsel, the district court
9 should generally defer to that choice.”) (citing *In re Cendant Corp. Litig.*, 264 F.3d 201, 276 (3d Cir.
10 2001)); *see also Cavanaugh*, 306 F.3d at 734 (“Selecting a lawyer in whom a litigant has confidence
11 is an important client prerogative and we will not lightly infer that Congress meant to take away this
12 prerogative from securities plaintiffs. And, indeed, it did not. While the appointment of counsel is
13 made subject to the approval of the court, the [PSLRA] clearly leaves the choice of class counsel in
14 the hands of the lead plaintiff.”).

15 Here, the Ohio Funds selected Labaton to represent themselves and the Class as Lead Counsel
16 in the Action. Labaton has significant experience in prosecuting securities class actions and has
17 excelled as lead counsel in numerous landmark securities class actions throughout the United States
18 on behalf of defrauded investors. For example, Labaton served as lead counsel in *In re American*
19 *International Group, Inc. Securities Litigation*, No. 04-cv-08141 (S.D.N.Y.), in which it achieved a
20 recovery totaling more than \$1 billion for injured investors, and secured a \$294.9 million recovery in
21 *In re Bear Stearns Cos., Inc. Securities, Derivative, & ERISA Litigation*, No. 08-md-01963
22 (S.D.N.Y.), in which the Firm served as co-lead counsel. Labaton also served as co-lead counsel in
23 *In re Satyam Computer Services Ltd. Securities Litigation*, No. 09-md-02027 (S.D.N.Y.), through
24 which it helped recover from the company and its auditors a total of \$150.5 million for class members,
25 and secured a \$170 million recovery as co-lead counsel in *In re Fannie Mae 2008 Securities*
26 *Litigation*, No. 08-cv-07831 (S.D.N.Y.). Labaton presently serves as lead or co-lead counsel in

1 several significant investor class actions. *See* Labaton Keller Sucharow Firm Resume, Keller Decl.,
2 Ex. D.

3 Byrnes Keller, a nationally recognized law firm headquartered in Seattle, is similarly qualified
4 to serve as liaison counsel on behalf of the Ohio Funds and class members. Byrnes Keller has
5 significant experience in complex and class action litigation. *See* Byrnes Keller Firm resume, Keller
6 Decl., Ex. E. Accordingly, the Court may be assured that, by granting the Ohio Funds' motion, the
7 Class will receive the highest caliber of legal representation.

8 **IV. CONCLUSION**

9 The Ohio Funds have satisfied each of the PSLRA's requirements for appointment as lead
10 plaintiff. As such, the Ohio Funds respectfully request that the Court (1) appoint them as Lead
11 Plaintiff (2) approve their selection of Lead Counsel and Liaison Counsel for the class; and (3) grant
12 such other and further relief as the Court may deem just and proper.

13 DATED: November 4, 2024

Respectfully submitted,

14 **BYRNES KELLER CROMWELL LLP**

s/ Bradley S. Keller

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s/ Joshua B. Selig

Joshua B. Selig, WSBA #39628

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Proposed Liaison Counsel for the Class

21 I certify that this memorandum contains 3,469 words,
22 in compliance with the Local Civil Rules.

23 **LABATON KELLER SUCHAROW LLP**

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28 MOTION FOR APPOINTMENT AS LEAD
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