

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

MITCHELL WAX, Individually and on  
behalf of All Others Similarly Situated,

Plaintiff,

v.

CROSS RIVER BANK,

Defendant.

Case No. 2:24-cv-09510 (BRM) (JRA)

**DEFENDANT’S LIMITED  
RESPONSE TO MOTION FOR  
APPOINTMENT OF LEAD PLAINTIFF**

Defendant Cross River Bank (“CRB”) respectfully submits this limited response to plaintiff Mitchell Wax’s motion for appointment as lead plaintiff pursuant to the Private Securities Litigation Reform Act of 1995 (“PSLRA”) and approval of his selection of counsel. See ECF No. 9.

CRB takes no position with respect to plaintiff’s motion for appointment as lead plaintiff or the approval of the selection of lead plaintiff’s counsel. For the avoidance of doubt, however, CRB reserves all rights and defenses as to the underlying claims, including without limitation all defenses based on standing or the appropriateness as a class representative of any appointed lead plaintiff in addition to all other defenses to class certification.

At this early stage of the case, any evaluation of typicality and adequacy of proposed lead plaintiffs under Rule 23 of the Federal Rules of Civil Procedure is necessarily preliminary. *In re Cendant Corp. Litig.*, 264 F.3d 201, 263 (3d Cir. 2001) (“The initial inquiry” on a lead plaintiff motion “should be confined to determining whether the movant has made a *prima facie* showing of typicality and adequacy.”); see *Labelle v. Future Fintech Grp., Inc.*, 2024 WL 4275226, at \*2 (D.N.J. Sept. 24, 2024) (“At the appointment of lead plaintiff stage, the Rule 23 analysis is limited

to determining whether the movant has made a *prima facie* showing of typicality and adequacy[.]”)  
(internal quotations omitted). Any order appointing lead plaintiff(s) should make that clear.

Dated: December 23, 2024  
New York, New York

DLA PIPER LLP (US)

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