

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

**The Original Sixteen to One Mine, Inc., Michael Miller, Hugh Dan
O’Neill III, Robert Besso, Jonathan Ferrell, Tom Woodfin, and Keith
Robertson v. Quartzview, Inc., Roger Haas, Simon P. Westbrook,
Douglas W. Charlton, and Does 1 through 100**

The Original Sixteen to One Mine · No. 2:23-cv-00376-TLN-SCR · Decided October 27, 2025

SUMMARY

The United States District Court for the Eastern District of California denies Defendants’ motion to dismiss the plaintiffs’ Second Amended Complaint. The Court holds that the complaint sufficiently alleges scienter and reliance for a securities-fraud claim under Section 10(b) of the Securities Exchange Act of 1934. Defendants are ordered to answer within 21 days of the October 24, 2025 order.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Troy L. Nunley
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	October 27, 2025
DOCKET	2:23-cv-00376-TLN-SCR
DISPOSITION	other
PROCEDURAL POSTURE	Defendants moved under Federal Rule of Civil Procedure 12(b)(6) to dismiss the plaintiffs’ first cause of action for securities fraud under § 10(b) of the Securities Exchange Act of 1934. The court denied the motion.
STANDARD OF REVIEW	On a Rule 12(b)(6) motion, the court tests the legal sufficiency of the complaint, accepts factual allegations as true, draws reasonable inferences in the plaintiff’s favor, and determines whether the complaint alleges enough facts to state a facially plausible claim. Legal conclusions and conclusory recitations of the elements are not accepted as true.

PRECEDENTIAL VALUE	unpublished district court order; precedential status not indicated in the source
PARTIES	The Original Sixteen to One Mine, Inc., Michael Miller, Hugh Dan O'Neill III, Robert Besso, Jonathan Ferrell, Tom Woodfin, Keith Robertson v. Quartzview, Inc., Roger Haas, Simon P. Westbrook, Douglas W. Charlton, Does 1 through 100

TOPICS

motions to dismiss

securities fraud

civil procedure

commercial litigation

corporate law

PRACTICE AREAS

securities litigation

civil procedure

commercial litigation

corporate law

QUESTIONS PRESENTED

1. Whether the Second Amended Complaint adequately pleaded scienter for a securities-fraud claim under § 10(b) and Rule 10b-5.
2. Whether the Second Amended Complaint adequately pleaded reliance for the securities-fraud claim.

HOLDINGS

1. The Second Amended Complaint adequately pleaded scienter because it alleged with particularity facts supporting a strong inference that the individual defendants acted intentionally or with deliberate recklessness, and it alleged that Haas and Westbrook acted as agents of Quartzview within the scope of their apparent authority, permitting their scienter to be imputed to Quartzview.
2. The Second Amended Complaint adequately pleaded reliance by alleging how shareholders learned of the alleged misrepresentations, the purpose of the representations, and that the representations played a role in shareholders' decisions whether to sell their stock to Quartzview or transfer control of OSTO.

KEY QUOTATIONS

"Ultimately, a court may not dismiss a complaint in which the plaintiff has alleged "enough facts to state a claim to relief that is plausible on its face."" (Opinion at 2)

"In sum, the Court finds Plaintiffs have adequately established scienter." (Opinion at 4)

"Here, the Court finds Plaintiffs have sufficiently cured the defects previously identified." (Opinion at 5)

FACTUAL BACKGROUND

Plaintiffs alleged that defendants made multiple false or misleading statements and omissions as part of a campaign to depress the value of Original Sixteen to One Mine stock and enable Quartzview to gain control of the company. The alleged misconduct included a manipulation report distributed by Roger Haas and Simon P. Westbrook, which plaintiffs alleged was intended to cause shareholders to lose confidence in existing

management and sell their shares to Haas or Quartzview. Plaintiffs alleged that Haas was Quartzview's president and director and Westbrook was a director, and that shareholders relied on the alleged misrepresentations when deciding whether to sell their stock to Quartzview or transfer control of the company.

PROCEDURAL HISTORY

Plaintiffs filed a Second Amended Complaint alleging, among other claims, securities manipulation under § 10(b), declaratory relief, California securities-law violations, breach of contract, inducing breach of contract, elder financial abuse, theft, and unfair competition. Defendants moved to dismiss the securities-fraud claim, arguing that scienter and reliance were inadequately pleaded. The court concluded that the Second Amended Complaint cured deficiencies identified in prior rulings and denied the motion, directing defendants to answer within twenty-one days.

DISPOSITION

other

CASES CITED

- Navarro v. Block, 250 F.3d 729, 732 (9th Cir.)
- Ashcroft v. Iqbal, 556 U.S. 662, 678-79 (2009)
- Bell Atlantic v. Twombly, 550 U.S. 544, 555, 570 (2007)
- Swierkiewicz v. Sorema N.A., 534 U.S. 506, 512 (2002)
- Cruz v. Beto, 405 U.S. 319, 322 (1972)
- Retail Clerks Int'l Ass'n v. Schermerhorn, 373 U.S. 746, 753 n.6 (1963)
- U.S. ex rel. Chunie v. Ringrose, 788 F.2d 638, 643 n.2 (9th Cir.)
- Associated Gen. Contractors of Cal., Inc. v. Cal. State Council of Carpenters, 459 U.S. 519, 526 (1983)
- Mir v. Little Co. of Mary Hosp., 844 F.2d 646, 649 (9th Cir.)
- Isuzu Motors Ltd. v. Consumers Union of U.S., Inc., 12 F. Supp. 2d 1035, 1042 (C.D. Cal.)
- Lopez v. Smith, 203 F.3d 1122, 1130 (9th Cir.)
- Doe v. United States, 58 F.3d 494, 497 (9th Cir.)
- Mueller v. San Diego Entertainment Partners, LLC, 260 F. Supp. 3d 1283, 1291-92 (S.D. Cal.)
- Matrixx Initiatives, Inc. v. Siracusano, 563 U.S. 27, 37 (2011)
- Amgen, Inc. v. Conn. Retirement Plans and Trust Funds, 568 U.S. 455, 476 (2013)
- Zucco Partners, LLC v. Digimarc Corp., 552 F.3d 981, 990 (9th Cir.)
- In re ChinaCast Educ. Corp. Sec. Litig., 809 F.3d 471, 475 (9th Cir.)
- In re Origin Materials, Inc. Sec. Litig., 766 F. Supp. 3d 998, 1012 (E.D. Cal.)
- In re Alphabet, Inc. Sec. Litig., 1 F.4th 687, 706 (9th Cir.)
- Desai v. Deutsche Bank Securities, Ltd., 573 F.3d 931, 939 (9th Cir.)
- Rowe v. Maremont Corp., 850 F.2d 1226, 1233 (9th Cir.)

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 EASTERN DISTRICT OF
CALIFORNIA 10 11 THE ORIGINAL SIXTEEN TO ONE MINE, INC., a California
Corporation; 12 MICHAEL MILLER; HUGH DAN No. 2:23-cv-00376-TLN-SCR O'NEILL III;
ROBERT BESSO, 13 JONATHAN FERRELL; TOM 14 WOODFIN; and KEITH ROBERTSON,
ORDER 15 Plaintiffs, 16 v. 17 QUARTZVIEW, INC., a California 18 Corporation; ROGER
HAAS; SIMON P. WESTBROOK; DOUGLAS W. 19 CHARLTON; and DOES 1 through 100,
inclusive, 20 Defendants.

21 22 23 This matter is before the Court on Defendants Quartzview, Inc. ("Quartzview"), Roger
24 Haas ("Haas"), and Simon P. Westbrook's ("Westbrook") (collectively, "Defendants") Motion
to 25 Dismiss.¹ (ECF No. 38.) Plaintiffs The Original Sixteen to One Mine, Inc. ("OSTO"), Hugh
Dan 26 1 Defendant Douglas W. Charlton ("Charlton") filed a notice of joinder to the instant 27
motion to dismiss.

(ECF No. 39.) When the Court uses "Defendants" in this Order, the Court is referring to
Defendants Quartzview, Haas, Westbrook, and Charlton. When the Court uses 28 "individual
Defendants" the Court is referring to Defendants Haas, Westbrook, and Charlton. 1 O'Neill III,
Robert Besso, Jonathan Ferrell, Tom Woodfin, and Keith Robertson filed an 2 opposition.

(ECF No. 41.) Plaintiff Michael Miller ("Plaintiff Miller") also filed an opposition.² 3 (ECF No.
42.) Defendants filed a reply. (ECF No. 46.) For the reasons set forth below, the 4 Court DENIES
Defendants' motion. 5 I. FACTUAL AND PROCEDURAL BACKGROUND 6 The factual
background of this case is set forth in full in the Court's March 29, 2024 7 Order granting in part
and denying in part Defendants' first motion to dismiss.

(ECF No. 11.) On 8 February 25, 2025, Plaintiffs filed a Second Amended Complaint ("SAC")
alleging claims for the 9 following: manipulation of securities to gain control; declaratory relief;
violation of California 10 Corporations Code §§ 25400–25304; breach of contract by OSTO
against Quartzview; inducing 11 breach of contract; elder financial abuse; theft in violation of
California Penal Code § 484; and 12 unfair competition in violation of California Business and
Professions Code § 17200.

(ECF No. 13 37.) Defendants filed the instant motion to dismiss on March 17, 2025. (ECF No.
38.) 14 II. STANDARD OF LAW 15 A motion to dismiss for failure to state a claim upon which
relief can be granted under 16 Federal Rule of Civil Procedure ("Rule") 12(b)(6) tests the legal
sufficiency of a complaint. 17 *Navarro v. Block*, 250 F.3d 729, 732 (9th Cir. 2001).

Rule 8(a) requires that a pleading contain 18 "a short and plain statement of the claim showing
that the pleader is entitled to relief." See 19 *Ashcroft v. Iqbal*, 556 U.S. 662, 678–79 (2009). Under
notice pleading in federal court, the 20 complaint must "give the defendant fair notice of what the

claim... is and the grounds upon which it rests.” *Bell Atlantic v. Twombly*, 550 U.S. 544, 555 (2007) (internal quotations omitted).

22 “This simplified notice pleading standard relies on liberal discovery rules and summary judgment 23 motions to define disputed facts and issues and to dispose of unmeritorious claims.” *Swierkiewicz v. Sorema N.A.*, 534 U.S. 506, 512 (2002). 25 26 2 When the Court uses “OSTO Plaintiffs” in this Order, the Court is referring to Plaintiffs 27 OSTO, Hugh Dan O’Neill III, Robert Besso, Jonathan Ferrell, Tom Woodfin, Keith Robertson.

When the Court uses “Plaintiffs” in this Order, the Court is referring to the OSTO Plaintiffs and 28 Plaintiff Michael Miller. 1 On a motion to dismiss, the factual allegations of the complaint must be accepted as true. 2 *Cruz v. Beto*, 405 U.S. 319, 322 (1972). A court is bound to give the plaintiff the benefit of every 3 reasonable inference to be drawn from the “well-pleaded” allegations of the complaint.

Retail Clerks Int’l Ass’n v. Schermerhorn, 373 U.S. 746, 753 n.6 (1963). A plaintiff need not allege 5 “‘specific facts’ beyond those necessary to state his claim and the grounds showing entitlement to 6 relief.” *Twombly*, 550 U.S. at 570. 7 Nevertheless, a court “need not assume the truth of legal conclusions cast in the form of 8 factual allegations.” *U.S. ex rel.*

Chunie v. Ringrose, 788 F.2d 638, 643 n.2 (9th Cir. 1986). 9 While Rule 8(a) does not require detailed factual allegations, “it demands more than an 10 unadorned, the defendant-unlawfully-harmed-me accusation.” *Iqbal*, 556 U.S. at 678. A 11 pleading is insufficient if it offers mere “labels and conclusions” or “a formulaic recitation of the 12 elements of a cause of action.” *Twombly*, 550 U.S. at 555; see also *Iqbal*, 556 U.S. at 678 13 (“Threadbare recitals of the elements of a cause of action, supported by mere conclusory 14 statements, do not suffice.”).

Moreover, it is inappropriate to assume the plaintiff “can prove 15 facts that it has not alleged or that the defendants have violated the... laws in ways that have not 16 been alleged.” *Associated Gen. Contractors of Cal., Inc. v. Cal. State Council of Carpenters*, 459 17 U.S. 519, 526 (1983). 18 Ultimately, a court may not dismiss a complaint in which the plaintiff has alleged “enough 19 facts to state a claim to relief that is plausible on its face.” *Iqbal*, 556 U.S. at 697 (quoting 20 *Twombly*, 550 U.S. at 570). “A claim has facial plausibility when the plaintiff pleads factual 21 content that allows the court to draw the reasonable inference that the defendant is liable for the 22 misconduct alleged.” *Id.* at 680.

While the plausibility requirement is not akin to a probability 23 requirement, it demands more than “a sheer possibility that a defendant has acted unlawfully.” 24 *Id.* at 678. This plausibility inquiry is “a context-specific task that requires the reviewing court to 25 draw on its judicial experience and common sense.” *Id.* at 679. 26 In ruling on a motion to dismiss, a court may only

consider the complaint, any exhibits 27 thereto, and matters which may be judicially noticed pursuant to Federal Rule of Evidence 201.

28 See *Mir v. Little Co. of Mary Hosp.*, 844 F.2d 646, 649 (9th Cir. 1988); *Isuzu Motors Ltd. v. 1 Consumers Union of U.S., Inc.*, 12 F. Supp. 2d 1035, 1042 (C.D. Cal. 1998). 2 If a complaint fails to state a plausible claim, “[a] district court should grant leave to 3 amend even if no request to amend the pleading was made, unless it determines that the pleading 4 could not possibly be cured by the allegation of other facts.” *Lopez v. Smith*, 203 F.3d 1122, 5 1130 (9th Cir.

2000) (en banc) (quoting *Doe v. United States*, 58 F.3d 494, 497 (9th Cir. 1995)). 6 III. ANALYSIS 7 Defendants move to dismiss Plaintiffs’ first cause of action. (ECF No. 38.) Plaintiffs’ 8 first cause of action seeks relief for Defendants’ manipulation of securities to gain control in 9 violation of the Securities and Exchange Act of 1934 (“the Act”) § 10(b).

(ECF No. 37 at 27–35.) 10 “To state a securities fraud claim under § 10(b) of the Act and Rule 10b-5, a plaintiff must 11 show (1) a material misrepresentation or omission, (2) scienter, (3) in connection with the 12 purchase or sale of a security, (4) reliance, (5) economic loss, and (6) loss causation.” *Mueller v. 13 San Diego Entertainment Partners, LLC*, 260 F. Supp. 3d 1283, 1291 (S.D.

Cal. 2017) (citing 14 *Matrixx Initiatives, Inc. v. Siracusano*, 563 U.S. 27, 37 (2011)). Under the Private Securities 15 Litigation Reform Act (“PSLRA”), a heightened pleading requirement requires that falsity and 16 scienter be plead with particularity. *Id.* (citing *Amgen, Inc. v. Conn. Retirement Plans and Trust 17 Funds*, 568 U.S. 455, 476 (2013); *Zucco Partners, LLC v. Digimarc Corp.*, 552 F. 3d 981, 990 18 (9th Cir.

2009)). 19 Defendants argue Plaintiffs fail to sufficiently allege scienter and reliance. (ECF No. 38 20 at 5–6.) The Court will address these elements in turn. 21 i. Scienter 22 To establish scienter, a complaint must allege the defendant intentionally or with 23 deliberate recklessness made false or misleading statements. *Mueller*, 260 F. Supp. 3d at 1291– 24 92.

Facts that show “mere recklessness” or “a motive to commit fraud and opportunity to do so” 25 are insufficient to prove “a strong inference of deliberate recklessness.” *Id.* at 1291. Where a 26 plaintiff has alleged the defendant was an agent of an entity, the entity may have scienter through 27 the defendant.

In re ChinaCast Educ. Corp. Sec. Litig., 809 F.3d 471, 475 (9th Cir. 2015). 28 / / / 1 Defendants argue, while Plaintiffs have alleged eight instances of Defendants’ 2 misconduct, each one is insufficient from a scienter perspective. (ECF No. 38 at 8.) Defendants 3 specifically contend Plaintiffs have not provided details to link the alleged fraudulent statements 4 to each specific defendant.

(Id.) In opposition, Plaintiff Miller argues the SAC includes 5 allegations identifying specific defendants who made false representations intended to depress the 6 value of OSTO shares and enable Quartzview to gain control. (ECF No. 42 at 6.) OSTO 7 Plaintiffs argue, taken together, the allegations of the SAC show a calculated campaign of false 8 and misleading statements and omissions committed with overt scienter.

(ECF No. 41 at 5.) 9 The Court previously addressed the sufficiency of Plaintiffs' allegations as to scienter in 10 ruling on Defendants' Motion to Dismiss Plaintiffs' First Amended Complaint. (ECF No. 32 at 11 5–9.) There, the Court noted, in at least seven instances of Defendants' alleged material 12 misrepresentations,³ Plaintiffs stated with particularity sufficient facts to give rise to a strong 13 inference the individual Defendants acted with the required state of mind — namely, that the 14 misrepresentations were made with “conscious recklessness,” “with fraudulent intent,” and 15 “without any regard for the truth of the statement made.

(Id. at 9.) However, the Court found 16 scienter was not fully established because Plaintiffs had not provided any information on how any 17 individual Defendant was acting on behalf of Quartzview. (Id.) Thus, in determining whether 18 Plaintiffs have cured the deficiencies of the FAC, the Court considers whether Plaintiffs alleged 19 any of the individual Defendants were acting on behalf of Quartzview.

20 The Court finds Plaintiffs have sufficiently alleged Defendants Haas and Westbrook were 21 acting on behalf of Quartzview. Specifically, Plaintiffs allege Haas is the President and Director 22 of Quartzview, and Westbrook is a Director of Quartzview. (ECF No. 37 ¶¶ 12, 13.) Plaintiffs 23 further allege Haas and Westbrook, in their capacities as President and Director, made 24 misrepresentations intended to manipulate the price of OSTO's stock and caused Quartzview to 25 obtain a controlling interest in OSTO.

(Id. at ¶¶ 40–42.) Because Plaintiffs have alleged Haas 26 and Westbrook were agents of Quartzview and acting within the scope of their apparent authority, 27 3 The eight instances of Defendants' material misrepresentations are summarized in full in 28 the Court's January 27, 2025 Order. (ECF No. 32 at 6–8.) 1 the scienter of Haas and Westbrook can be imputed to Quartzview.

See *In re Origin Materials, Inc. Sec. Litig.*, 766 F. Supp. 3d 998, 1012 (E.D. Cal. 2025) (citing *In re Alphabet, Inc. Sec. Litig.*, 3 1 F.4th 687, 706 (9th Cir. 2021)). 4 In sum, the Court finds Plaintiffs have adequately established scienter. 5 ii. Reliance 6 “Reliance establishes the causal connection between the alleged fraud and the securities 7 transaction.” *Desai v. Deutsche Bank Securities, Ltd.*, 573 F.3d 931, 939 (9th Cir.

2009). “To 8 say that a plaintiff relied on a defendant's bad act is to say that the defendant's actions ‘played a 9 substantial part in the plaintiff's investment decision.’” *Id.* (citing *Rowe v. Maremont Corp.*, 850 10 F.2d 1226, 1233 (9th Cir. 1988)). This element requires a plaintiff to

establish “that he would not 11 have engaged in the transaction in question had he known about the fraud.” Id. 12 Defendants argue Plaintiffs fail to allege that they would not have engaged in the 13 transaction had they known about the alleged misrepresentations.

(ECF No. 38 at 8.) In 14 opposition, Plaintiff Miller maintains the SAC includes allegations that Plaintiffs relied on 15 Defendants’ false and fraudulent misrepresentations. (ECF No. 42 at 8.) Further, Plaintiffs 16 contend Defendants have not disputed the alleged fraudulent misrepresentations were material to 17 whether Plaintiffs agreed to accept Quartzview’s tender offer and argue when materiality is 18 established, reliance is presumed.

(Id. at 9; ECF No. 41 at 11.) 19 The Court previously addressed the sufficiency of Plaintiffs’ allegations as to reliance in 20 ruling on Defendants’ Motion to Dismiss Plaintiffs’ First Amended Complaint. (ECF No. 32 at 21 9–10.) There, the Court noted Plaintiffs had not alleged facts to show how they became aware of 22 the alleged misrepresentations and what role the alleged misrepresentations played in their 23 decision-making.

(Id. at 10.) 24 Here, the Court finds Plaintiffs have sufficiently cured the defects previously identified. 25 For example, with respect to the “manipulation report,” Plaintiffs allege OSTO was provided with 26 a copy of the report by a shareholder who had received it from Haas and Westbrook. (ECF No. 27 37 ¶ 25(A)(v).) Plaintiffs also allege the purpose of the report was to get OSTO shareholders to 28 rely on the report and thereby lose confidence in Plaintiff Miller and the then-existing OSTO 1 | management with the intent of inducing existing shareholders to sell their shares to Haas or 2 | Quartzview.

Ud. | 25(A)(vi).) Plaintiffs further allege Haas informed Plaintiff Miller that Haas 3 | was purchasing OSTO shares at a depressed price. (U/d.) Additionally, Plaintiffs allege OSTO’s 4 | shareholders relied upon the report and false representations contained therein when deciding 5 | whether to agree to sell their stock to Quartzview or vote to remove OSTO’s management and 6 | give control of OSTO to Quartzview. (d.at §]25(A)*) The Court finds Plaintiffs have alleged 7 | similarly sufficient facts with respect to the other seven instances.

Accordingly, Plaintiffs have 8 | sufficiently alleged reliance. 9 IV. CONCLUSION 10 For the foregoing reasons, the Court DENIES Defendants’ motion to dismiss. (ECF No. 11 38.) Defendants shall file an answer not later than twenty-one (21) days from the date of this 12 | Order. 13 IT IS SO ORDERED. 14 || Date: October 24, 2025 7, 15 Let TROY L. NUNLEY 16 CHIEF UNITED STATES DISTRICT JUDGE 17 18 19 20 21 22 23 24 25 26 27 |_| — 4 Though Plaintiff’s Complaint is numbered throughout, the cited paragraph is not 28 | numbered but can be found at ECF No. 37 at 13, lines 12-19.