

will own approximately 78% of the combined company, and CGI stockholders will own approximately 22% of the combined company.

3. On October 16, 2020, defendants filed a Form S-4 Registration Statement (the “S-4”) with the SEC. The S-4 is materially deficient and misleading because, *inter alia*, it fails to disclose material information regarding: (i) the valuations of CGI, StemoniX, and the combined company, including any financial projections for CGI and StemoniX and any financial analyses performed by the Company’s financial advisor, H.C. Wainwright & Co. (“Wainwright”), or Company management; (ii) potential conflicts of interest faced by Wainwright and Company insiders; and (iii) the background of the Proposed Transaction. Without additional information, the S-4 is materially misleading in violation of the federal securities laws.

4. The stockholder vote to approve the Proposed Transaction is forthcoming. Under the Merger Agreement, following a successful stockholder vote, the Proposed Transaction will be consummated. For these reasons and as set forth in detail herein, Plaintiff seeks to enjoin defendants from conducting the stockholder vote on the Proposed Transaction unless and until the material information discussed below is disclosed to the holders of the Company common stock, or, in the event the Proposed Transaction is consummated, to recover damages resulting from the defendants’ violations of the Exchange Act.

JURISDICTION AND VENUE

5. This Court has jurisdiction over the claims asserted herein for violations of Sections 14(a) and 20(a) of the Exchange Act and SEC Rule 14a-9 promulgated thereunder pursuant to Section 27 of the Exchange Act, 15 U.S.C. § 78aa, and 28 U.S.C. § 1331 (federal question jurisdiction).

6. This Court has jurisdiction over the defendants because each defendant is either a corporation that conducts business in and maintains operations within this District, or is an

individual with sufficient minimum contacts with this District so as to make the exercise of jurisdiction by this Court permissible under traditional notions of fair play and substantial justice.

7. Venue is proper in this District under Section 27 of the Exchange Act, 15 U.S.C. § 78aa, as well as under 28 U.S.C. § 1391 because: (i) the Company maintains its principal executive offices in this District; (ii) one or more of the defendants either resides in or maintains executive offices in this District; and (iii) defendants have received substantial compensation in this District by doing business here and engaging in numerous activities that had an effect in this District.

THE PARTIES

8. Plaintiff is, and has been at all times relevant hereto, a continuous stockholder of CGI.

9. Defendant CGI is a Delaware corporation, with its principal executive offices located at 201 Route 17 North, 2nd Floor, Rutherford, New Jersey 07070. CGI's common stock trades on the Nasdaq Capital Market under the ticker symbol "CGIX."

10. Defendant Edmund Cannon has served as a director of the Company since 2005.

11. Defendant Franklyn G. Prendergast has served as a director of the Company since 2012.

12. Defendant Geoffrey Harris is Chairman of the Board and has served as a director of the Company since 2014.

13. Defendant Howard McLeod has served as a director of the Company since 2014.

14. Defendants identified in paragraphs 10-13 are referred to herein as the "Board" or the "Individual Defendants."

15. Relevant non-party StemoniX is a private company that develops and manufactures high-density, at-scale human induced pluripotent stem cell-derived neural and cardiac screening platforms for drug discovery and development.

SUBSTANTIVE ALLEGATIONS

Background of the Company and the Proposed Transaction

16. CGI provides multi-disciplinary diagnostic and data solutions by facilitating individualized therapies through the Company's diagnostic tests, services and molecular markers. The Company develops, commercializes and provides molecular and biomarker-based tests and services, including proprietary preclinical oncology and immuno-oncology services, that enable biotech and pharmaceutical companies engaged in oncology and immuno-oncology trials to better select candidate populations and reduce adverse drug reactions by providing information regarding genomic and molecular factors influencing subject responses to therapeutics.

17. CGI's business is based on demand for molecular and biomarker-based tests and services from three main sectors, including biotechnology and pharmaceutical companies, cancer centers and hospitals, and the research community. Biotechnology and pharmaceutical companies engaged in designing and running clinical trials to determine the value and efficacy of oncology and immuno-oncology treatments and therapeutics continuously benefit from Company services.

18. In 2017, CGI acquired vivoPharm Pty Ltd. ("vivoPharm"), a contract research organization that specializes in planning and conducting unique, specialized studies to guide drug discovery and development programs with a concentration in oncology and immuno-oncology. These studies range from early compound selection to developing comprehensive sets of in vitro and in vivo data, as needed for FDA Investigational New Drug ("IND") applications. vivoPharm's studies have been utilized to support over 250 IND submissions to date across a range of therapeutic indications, including lymphomas, leukemia, gastrointestinal cancers, liver cancer, pancreatic cancer, non-small cell lung cancer, and other non-cancer rare diseases. vivoPharm is presently serving over 50 biotechnology and pharmaceutical companies across four continents in over 100 studies and trials with highly specialized development, clinical and preclinical research.

Over the past 15 years, vivoPharm has also generated an extensive library of human xenograft and syngeneic tumor models, including subcutaneous, orthotopic and metastatic models.

19. On August 24, 2020, CGI and StemoniX issued a joint press release announcing the Proposed Transaction. The press release states, in relevant part:

RUTHERFORD, NJ and MAPLE GROVE, MN, Aug. 24, 2020 -- Cancer Genetics, Inc. (the “Company”) (Nasdaq: CGIX), and StemoniX, Inc., today announced the entry into a definitive merger agreement. Cancer Genetics is a leader in drug discovery and preclinical oncology and immuno-oncology services. StemoniX, a private company, is a leader in developing high-throughput disease-specific human organoid platforms integrated with leading-edge data science technologies. Under the terms of the merger agreement, StemoniX will merge with a newly formed subsidiary of Cancer Genetics in an all-equity transaction. Upon shareholder approval, the combined company expects to remain listed on the Nasdaq Stock Market. StemoniX will retain its name and become a wholly-owned subsidiary of Cancer Genetics.

The transaction will position the combined company to harness the synergies between two critical modalities of drug discovery and development - advanced animal models and relevant human high-throughput organoid platforms. The resulting integration of scientific and technology-based expertise, skilled management teams, and ability to offer customers an end-to-end platform will de-risk and accelerate development of preclinical and clinical pipelines for biopharma partners as well as for the proprietary pipeline of the combined company. In combination, Cancer Genetics and StemoniX currently enjoy partnerships and R&D relationships with dozens of global pharmaceutical and biotechnology companies.

“The process of discovering and developing a new drug candidate takes years and comes with a price tag of hundreds of millions - or even billions - of dollars. However, we are at unique time in the drug discovery industry as the convergence of technological innovations in both biology and software will transform conventional workflows in time and accuracy. To convert the time-consuming and labor-intensive process of developing a drug for market, we now look to supplement traditional discovery and drug approval mechanisms to include humanized cell-based assays with artificial intelligence (“AI”) along with our core vivoPharm business. Given that our strategy and approach are strongly aligned with those of StemoniX, we are pleased to have moved forward with this proposed transaction,” stated Jay Roberts, Chief Executive Officer of Cancer Genetics.

“The pharma industry and society are at a critical pivot point. Viral pandemics and diseases lacking treatments require a new way of innovation. The proposed merger expects to expand our ability to engage with a larger audience of potential partners

and expand our internal capabilities as we deliver on our mission to rapidly discover the safest and most effective therapeutics on behalf of our partners and our shareholders. The mission will stay consistent - allow scientists to quickly and economically conduct high-throughput toxicity and drug development studies in ready-to-assay plates containing functional microOrgans®,” stated Ping Yeh, Chief Executive Officer of StemoniX.

ABOUT THE TRANSACTION

Pursuant to the merger agreement, Cancer Genetics will acquire all of the outstanding capital stock of StemoniX in exchange for a number of shares of its common stock which will represent approximately 78% of the outstanding common stock of Cancer Genetics, subject to certain adjustments and prior to the effects of the financing referred to below, with the current equity holders of Cancer Genetics retaining 22% of the common stock immediately following the consummation of the merger.

The Boards of Directors of both companies have approved the proposed merger, which is expected to close in the fourth quarter of 2020, subject to the approval of the shareholders of both Cancer Genetics and StemoniX, financing and other customary closing conditions.

The S-4 Misleads CGI Stockholders by Omitting Material Information

20. On October 16, 2020, defendants filed the materially misleading and incomplete S-4 with the SEC. Designed to convince CGI’s stockholders to vote in favor of the Proposed Transaction, the S-4 is rendered misleading by the omission of critical information concerning: (i) the valuations of CGI, StemoniX, and the combined company, including any financial projections for CGI and StemoniX and any financial analyses performed by the Company’s financial advisor, Wainwright, or Company management; (ii) potential conflicts of interest faced by Wainwright and Company insiders; and (iii) the background of the Proposed Transaction.

Material Omissions Concerning the Valuations of CGI, StemoniX and the Combined Company

21. The S-4 is materially deficient because it fails to disclose material information concerning the valuations of CGI, StemoniX, and the combined company.

22. Critically, the S-4 fails to disclose any financial projections for the Company and StemoniX.

23. Moreover, the S-4 fails to disclose and quantify the value of any synergies expected from the combined company and considered by the Board in connection with its decision to approve the Proposed Transaction.

24. Additionally, the S-4 states that “CGI engaged Wainwright as its financial advisor” (S-4 at 86-87), and that during discussions with investment banking firms, including Wainwright, regarding a potential engagement, CGI had discussed, among other things, “the possibility of providing a fairness opinion[.]” *Id.* at 86. Yet, the S-4 fails to disclose any financial analyses performed by Wainwright, as well as the Board’s basis for not obtaining a fairness opinion on the Proposed Transaction from Wainwright.

25. The S-4 further fails to disclose whether CGI’s management performed any financial analyses of the Company that were considered and relied upon by the Board, in determining to approve the Proposed Transaction.

26. Without this information, CGI stockholders are unable to evaluate the Proposed Transaction, CGI’s financial future as a standalone entity or combined with StemoniX, or make an informed decision whether the Proposed Transaction serves their best interests.

27. The omission of this material information renders certain portions of the S-4 materially misleading, including, inter alia, the following sections of the S-4: “Background of the Merger” and “CGI Reasons for the Merger.”

Material Omissions Concerning Wainwright’s and Company Insiders’ Conflicts of Interest

28. The S-4 fails to disclose material information concerning Wainwright’s potential conflicts of interest.

29. The S-4 fails to disclose: (i) the amount of compensation Wainwright has received or will receive in connection with its engagement; (ii) the amount of Wainwright's compensation that is contingent upon the consummation of the Proposed Transaction; and (iii) the details of any past services Wainwright has performed for any parties to the Merger Agreement or their affiliates, including the timing and nature of such services as well as the amount of compensation received by Wainwright for providing such services.

30. Full disclosure of investment banker compensation and all potential conflicts is required due to the central role played by investment banks in the evaluation, exploration, selection, and implementation of strategic alternatives.

31. The S-4 also fails to disclose Company insiders' potential conflicts of interest.

32. For example, the S-4 sets forth that John A. Roberts ("Roberts"), the Company's President and Chief Executive Officer ("CEO"), will continue as President and CEO of the combined company. Additionally, Ralf Brandt ("Brandt"), CGI's President of Discovery & Early Development Services, will continue as President of Discovery Services with the combined company. The S-4 fails to disclose the specific details of all employment and retention-related discussions and negotiations that occurred between StemoniX and CGI executive officers and directors, including who participated in all such communications, when they occurred and their content. The S-4 further fails to disclose when Roberts and Brandt were first offered positions with the combined company and whether StemoniX's or CGI's proposals mentioned management retention and board membership in the combined company.

33. Communications regarding post-transaction employment and merger-related benefits during the negotiation of the underlying transaction must be disclosed to stockholders. This information is necessary for stockholders to understand potential conflicts of interest of

management and the Board, as that information provides illumination concerning motivations that would prevent fiduciaries from acting solely in the best interests of the Company's stockholders.

34. The omission of this material information renders certain portions of the S-4 materially misleading, including, inter alia, the following sections of the S-4: "Background of the Merger" and "Interests of CGI Directors and Executive Officers in the Merger."

Material Omissions Concerning the Background of the Proposed Transaction

35. The S-4 is also materially deficient because it fails to disclose material information concerning the background process leading to the Proposed Transaction.

36. Specifically, the S-4 states that 26 companies entered into confidentiality agreements with CGI, that CGI's standard form of confidentiality agreement contains a six month standstill provision, and that "most of these parties are no longer bound by this provision of the agreement. . . ." *Id.* at 88. The S-4 must clarify the terms of all of the confidentiality agreements entered into by the Company, including whether the standstills are "don't-ask, don't-waive" ("DADW") standstill provisions, whether the parties still bound by a standstill are subject to a DADW provision, and quantify how many parties are still bound by a standstill.

37. The disclosure of the terms of the confidentiality agreements is crucial to CGI stockholders being sufficiently informed as to whether their fiduciaries have put in place restrictive devices to foreclose a topping bid for the Company.

38. The S-4 also fails to disclose the terms of all proposals and indications of interest received by CGI, including, but not limited to, the indications of interest the Company received in September 2019, the five written proposals the Company received by November 25, 2019, the two unsolicited offers submitted by companies that did not enter into a confidentiality agreement, and the oral proposals CGI received from six companies prior to July 2020.

39. Additionally, the S-4 sets forth:

On June 3, 2020, CGI, through Wainwright, sent StemoniX a draft, non-binding letter of intent, which outlined the potential terms of a reverse merger transaction, including pro-forma post-closing equity ownership of 67% for StemoniX shareholders and 33% for CGI stockholders. In its return draft, StemoniX management specified a pro-forma post-closing equity ownership of 80% for StemoniX shareholders and 20% for CGI stockholders. In a contemporaneous telephone call on June 9, 2020 the Chairman of StemoniX and the Chief Executive Officer of CGI discussed the relative valuations of the companies. In subsequent drafts, the percentages were negotiated and eventually reached 78% and 22%, respectively. Additionally, the post-merger management composition was discussed in detail, and the CGI Board was apprised of the rationale for the selected management of the post-merger company, based on individual skills, expertise, relative experience and history with each of the two companies (including the CGI subsidiary *vivoPharm*).

Id. at 89. The S-4 fails to disclose the details of the material negotiations leading to the terms of the Proposed Transaction, as well as the relative valuations of the companies discussed between the Chairman of StemoniX and CEO of CGI.

40. The omission of this material information renders certain portions of the S-4 materially misleading, including, inter alia, the following section of the S-4: “Background of the Merger.”

41. Accordingly, Plaintiff seeks injunctive and other equitable relief to prevent the irreparable injury that Company stockholders will continue to suffer absent judicial intervention.

CLAIMS FOR RELIEF

COUNT I

Claims Against All Defendants for Violations of Section 14(a) of the Exchange Act and Rule 14a-9 Promulgated Thereunder

42. Plaintiff repeats all previous allegations as if set forth in full.

43. During the relevant period, defendants disseminated the false and misleading S-4 specified above, which failed to disclose material facts necessary to make the statements, in light

of the circumstances under which they were made, not misleading in violation of Section 14(a) of the Exchange Act and SEC Rule 14a-9 promulgated thereunder.

44. By virtue of their positions within the Company, the defendants were aware of this information and of their duty to disclose this information in the S-4. The S-4 was prepared, reviewed, and/or disseminated by the defendants. It misrepresented and/or omitted material facts, including material information about the valuations of CGI, StemoniX, and the combined company, any financial analyses relied upon by the Board, potential conflicts of interest faced by Wainwright and Company insiders, and the background of the Proposed Transaction. The defendants were at least negligent in filing the S-4 with these materially false and misleading statements.

45. The omissions and false and misleading statements in the S-4 are material in that a reasonable stockholder would consider them important in deciding how to vote on the Proposed Transaction.

46. By reason of the foregoing, the defendants have violated Section 14(a) of the Exchange Act and SEC Rule 14a-9(a) promulgated thereunder.

47. Because of the false and misleading statements in the S-4, Plaintiff is threatened with irreparable harm, rendering money damages inadequate. Therefore, injunctive relief is appropriate to ensure defendants' misconduct is corrected.

COUNT II

Claims Against the Individual Defendants for Violations of Section 20(a) of the Exchange Act

48. Plaintiff repeats all previous allegations as if set forth in full.

49. The Individual Defendants acted as controlling persons of CGI within the meaning of Section 20(a) of the Exchange Act as alleged herein. By virtue of their positions as officers

and/or directors of CGI, and participation in and/or awareness of the Company's operations and/or intimate knowledge of the false statements contained in the S-4 filed with the SEC, they had the power to influence and control and did influence and control, directly or indirectly, the decision-making of the Company, including the content and dissemination of the various statements which Plaintiff contends are false and misleading.

50. Each of the Individual Defendants was provided with or had unlimited access to copies of the S-4 and other statements alleged by Plaintiff to be misleading prior to and/or shortly after these statements were issued and had the ability to prevent the issuance of the statements or cause the statements to be corrected.

51. In particular, each of the Individual Defendants had direct and supervisory involvement in the day-to-day operations of the Company, and, therefore, is presumed to have had the power to control or influence the particular transactions giving rise to the securities violations as alleged herein, and exercised the same. The S-4 at issue contains the unanimous recommendation of each of the Individual Defendants to approve the Proposed Transaction. They were, thus, directly involved in the making of the S-4.

52. In addition, as the S-4 sets forth at length, and as described herein, the Individual Defendants were each involved in negotiating, reviewing, and approving the Proposed Transaction. The S-4 purports to describe the various issues and information that they reviewed and considered—descriptions the Company directors had input into.

53. By virtue of the foregoing, the Individual Defendants have violated Section 20(a) of the Exchange Act.

54. As set forth above, the Individual Defendants had the ability to exercise control over and did control a person or persons who have each violated Section 14(a) and SEC Rule 14a-

9, promulgated thereunder, by their acts and omissions as alleged herein. By virtue of their positions as controlling persons, these defendants are liable pursuant to Section 20(a) of the Exchange Act. As a direct and proximate result of defendants' conduct, CGI's stockholders will be irreparably harmed.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff demands judgment and preliminary and permanent relief, including injunctive relief, in his favor on behalf of CGI, and against defendants, as follows:

- A. Preliminarily and permanently enjoining defendants and all persons acting in concert with them from proceeding with, consummating, or closing the Proposed Transaction and any vote on the Proposed Transaction, unless and until defendants disclose and disseminate the material information identified above to CGI stockholders;
- B. In the event defendants consummate the Proposed Transaction, rescinding it and setting it aside or awarding rescissory damages to Plaintiff;
- C. Directing the Individual Defendants to disseminate an S-4 that does not contain any untrue statements of material fact and that states all material facts required in it or necessary to make the statements contained therein not misleading;
- D. Declaring that defendants violated Sections 14(a) and/or 20(a) of the Exchange Act, as well as SEC Rule 14a-9 promulgated thereunder;
- E. Awarding Plaintiff the costs of this action, including reasonable allowance for Plaintiff's attorneys' and experts' fees; and
- F. Granting such other and further relief as this Court may deem just and proper.

JURY DEMAND

Plaintiff demands a trial by jury.

Dated: November 25, 2020

WESSLAW LLP

By /s/ Mark. D. Smilow

Mark. D. Smilow
Richard A. Acocelli (to be admitted *pro hac vice*)
1500 Broadway, 16th Floor
New York, New York 10036
Tel: (212) 682-3025
Fax: (212) 682-3010
Email: msmilow@weisslawllp.com

Attorneys for Plaintiff

OF COUNSEL:

BRAGAR EAGEL & SQUIRE P.C.

Alexandra B. Raymond
810 Seventh Avenue, Suite 620
New York, NY 10019
Tel: (646) 860-9158
Fax: (212) 214-0506
Email: raymond@bespc.com

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Steve Prentiss

(b) County of Residence of First Listed Plaintiff Johnson County, KS (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Mark. D. Smilow, WeissLaw LLP, 1500 Broadway, 16th Fl, New York, NY 10036, (212) 682-3025

DEFENDANTS

Cancer Genetics, Inc., Edmund Cannon, Franklyn G. Prendergast, Geoffrey Harris, and Howard McLeod

County of Residence of First Listed Defendant (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff, 2 U.S. Government Defendant, 3 Federal Question (U.S. Government Not a Party), 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, PTF DEF, 1 1, 2 2, 3 3, 4 4, 5 5, 6 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

Table with columns: CONTRACT, REAL PROPERTY, CIVIL RIGHTS, TORTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Includes various legal categories like Personal Injury, Property Damage, Labor, etc.

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding, 2 Removed from State Court, 3 Remanded from Appellate Court, 4 Reinstated or Reopened, 5 Transferred from Another District (specify), 6 Multidistrict Litigation - Transfer, 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): 15 U.S.C. §§ 78n(a), 78t(a) and Rule 14a-9, 17 C.F.R. § 240.14a-9. Brief description of cause: Violation of Sec. 14(a) and 20(a) of Securities Exchange Act of 1934

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ CHECK YES only if demanded in complaint: JURY DEMAND: [x] Yes [] No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE Hon. John Michael Vazquez DOCKET NUMBER 20-cv-16611

DATE Nov 25, 2020 SIGNATURE OF ATTORNEY OF RECORD

/s/ Mark. D. Smilow

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here. United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.
 Original Proceedings. (1) Cases which originate in the United States district courts.
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441.
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
 Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service.
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

Dated: November 25, 2020

WEISSLAW LLP

By s/ Mark. D. Smilow

Mark. D. Smilow

Richard A. Acocelli (to be admitted pro hac vice)

1500 Broadway, 16th Floor

New York, New York 10036

Tel: (212) 682-3025

Fax: (212) 682-3010

Email: msmilow@weisslawllp.com

OF COUNSEL:

Attorneys for Plaintiff

BRAGAR EAGEL & SQUIRE P.C.

Alexandra B. Raymond

810 Seventh Avenue, Suite 620

New York, NY 10019

Tel: (646) 860-9158

Fax: (212) 214-0506

Email: raymond@bespc.com

AO 440 (Rev. 12/09) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

District of New Jersey

STEVE PRENTISS

Plaintiff

v.

CANCER GENETICS, INC., et al.

Defendant

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)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* Cancer Genetics, Inc.
201 Route 17 North, 2nd Floor
Rutherford, New Jersey 07070

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Mark. D. Smilow
WeissLaw LLP
1500 Broadway, 16th Floor
New York, New York 10036
Tel:(212) 682-3025

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____.

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____, who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____; or

I returned the summons unexecuted because _____; or

Other *(specify)*: _____

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 _____.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

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AO 440 (Rev. 12/09) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

District of New Jersey

STEVE PRENTISS

Plaintiff

v.

CANCER GENETICS, INC., et al.

Defendant

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Civil Action No.

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* Edmund Cannon
c/o Cancer Genetics, Inc.
201 Route 17 North, 2nd Floor
Rutherford, New Jersey 07070

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Mark. D. Smilow
WeissLaw LLP
1500 Broadway, 16th Floor
New York, New York 10036
Tel:(212) 682-3025

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____.

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____, who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____; or

I returned the summons unexecuted because _____; or

Other *(specify)*: _____

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

Print

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AO 440 (Rev. 12/09) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

District of New Jersey

STEVE PRENTISS

Plaintiff

v.

CANCER GENETICS, INC., et al.

Defendant

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Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) Franklyn G. Prendergast
c/o Cancer Genetics, Inc.
201 Route 17 North, 2nd Floor
Rutherford, New Jersey 07070

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Mark. D. Smilow
WeissLaw LLP
1500 Broadway, 16th Floor
New York, New York 10036
Tel:(212) 682-3025

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____.

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____, who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____; or

I returned the summons unexecuted because _____; or

Other *(specify)*: _____

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

Print

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AO 440 (Rev. 12/09) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

District of New Jersey

STEVE PRENTISS

Plaintiff

v.

CANCER GENETICS, INC., et al.

Defendant

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Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) Geoffrey Harris
c/o Cancer Genetics, Inc.
201 Route 17 North, 2nd Floor
Rutherford, New Jersey 07070

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Mark. D. Smilow
WeissLaw LLP
1500 Broadway, 16th Floor
New York, New York 10036
Tel:(212) 682-3025

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____.

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____, who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____; or

I returned the summons unexecuted because _____; or

Other *(specify)*: _____

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 _____.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

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AO 440 (Rev. 12/09) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

District of New Jersey

STEVE PRENTISS

Plaintiff

v.

CANCER GENETICS, INC., et al.

Defendant

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Civil Action No.

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* Howard McLeod
c/o Cancer Genetics, Inc.
201 Route 17 North, 2nd Floor
Rutherford, New Jersey 07070

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Mark. D. Smilow
WeissLaw LLP
1500 Broadway, 16th Floor
New York, New York 10036
Tel:(212) 682-3025

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____.

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____, who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____; or

I returned the summons unexecuted because _____; or

Other *(specify)*: _____

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 _____.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

Print

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