

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

_____, Individually and On Behalf
of All Others Similarly Situated,

Plaintiff,

v.

EVERQUOTE, INC., SETH BIRNBAUM,
JOHN WAGNER, DAVID BLUNDIN,
SANJU BANSAL, JOHN LUNNY,
GEORGE NEBLE, JOHN SHIELDS,
MIRA WILCZEK, DAVID MASON, J.P.
MORGAN SECURITIES LLC, MERRILL
LYNCH, PIERCE, FENNER & SMITH
INCORPORATED, CANACCORD
GENUITY LLC, JMP SECURITIES LLC,
NEEDHAM & COMPANY LLC,
OPPENHEIMER & CO. INC., RAYMOND
JAMES & ASSOCIATES, INC., and
WILLIAM BLAIR & COMPANY, L.L.C.,

Defendants.

Case No.: DRAFT

**CLASS ACTION COMPLAINT FOR
VIOLATIONS OF THE FEDERAL
SECURITIES LAWS**

JURY TRIAL DEMANDED

Law Offices of Howard G. Smith

Plaintiff _____ (“Plaintiff”), individually and on behalf of all others similarly situated, by and through his attorneys, alleges the following upon information and belief, except as to those allegations concerning Plaintiff, which are alleged upon personal knowledge. Plaintiff’s information and belief is based upon, among other things, his counsel’s investigation, which includes without limitation: (a) review and analysis of regulatory filings made by EverQuote, Inc. (“EverQuote” or the “Company”) with the United States (“U.S.”) Securities and Exchange Commission (“SEC”); (b) review and analysis of press releases and media reports issued by and disseminated by EverQuote; and (c) review of other publicly available information concerning EverQuote.

NATURE OF THE ACTION AND OVERVIEW

1. This is a class action on behalf of persons and entities that purchased or otherwise acquired EverQuote securities pursuant and/or traceable to the registration statement and prospectus (collectively, the “Registration Statement”) issued in connection with the Company’s June 2018 initial public offering (“IPO” or the “Offering”). Plaintiff pursues claims against the Defendants, under the Securities Act of 1933 (the “Securities Act”).

2. EverQuote purports to be an online lead generation company specializing in leads for auto insurance.

3. On June 28, 2018, the Company filed its prospectus on Form 424B4 with the SEC, which forms part of the Registration Statement. In the IPO, the Company sold 4,687,500 shares of Class A common stock at a price of \$18.00 per share. The Company received proceeds of approximately \$84 million from the Offering. The proceeds from the IPO were purportedly to be used for working capital, capital expenditures, and general corporate purposes.

4. On August 6, 2018, the Company revealed that quote request volume had worsened during second quarter 2018, with year-over-year growth rate of only 2.3% (down from the 14.3% first quarter 2018 growth rate touted in the Registration Statement) and, moreover to a ***quarterly decline of 12%***.

5. Then, on November 12, 2018, the Company revealed that quote request volume

had deteriorated further during the third quarter to a year-over-year 6% decline.

6. On this news, EverQuote's stock price closed at \$6.15 per share, which was a decline of \$11.85, or approximately 66%, from the IPO price of \$18.00 per share.

7. The Registration Statement was false and misleading and omitted to state material adverse facts. Specifically, Defendants failed to disclose to investors: (1) that the Company had implemented a strategy to moderate quote request volume to optimize pricing and margin; (2) that, as a result, profitability was declining; (3) that certain financial metrics were inflated ahead of the IPO; and (4) that, as a result of the foregoing, Defendants' positive statements about the Company's business, operations, and prospects, were materially misleading and/or lacked a reasonable basis.

8. As a result of Defendants' wrongful acts and omissions, and the precipitous decline in the market value of the Company's securities, Plaintiff and other Class members have suffered significant losses and damages.

JURISDICTION AND VENUE

9. The claims asserted herein arise under and pursuant to Sections 11, 12, and 15 of the Securities Act (15 U.S.C. §§ 77k and 77o), and Sections 10(b) and 20(a) of the Exchange Act (15 U.S.C. §§ 78j(b) and 78t(a)) and Rule 10b-5 promulgated thereunder by the SEC (17 C.F.R. § 240.10b-5).

10. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. § 1331, Section 22 of the Securities Act (15 U.S.C. § 77v), and Section 27 of the Exchange Act (15 U.S.C. § 78aa).

11. Venue is proper in this Judicial District pursuant to 28 U.S.C. § 1391(b) and Section 27 of the Exchange Act (15 U.S.C. § 78aa(c)). The Company has offices in this district.

12. In connection with the acts, transactions, and conduct alleged herein, Defendants directly and indirectly used the means and instrumentalities of interstate commerce, including the United States mail, interstate telephone communications, and the facilities of a national securities exchange.

PARTIES

13. Plaintiff _____, as set forth in the accompanying certification, incorporated by reference herein, purchased or otherwise acquired EverQuote securities pursuant and/or traceable to the Registration Statement issued in connection with the Company's IPO, and suffered damages as a result of the federal securities law violations and false and/or misleading statements and/or material omissions alleged herein.

14. Defendant EverQuote is incorporated under the laws of Delaware with its principal executive offices located in Cambridge, Massachusetts. EverQuote's Class A common stock trades on the NASDAQ under the symbol "EVER."

15. Defendant Seth Birnbaum ("Birnbaum") was, at all relevant times, the Chief Executive Officer and a Director of the Company, and signed or authorized the signing of the Company's Registration Statement filed with the SEC.

16. Defendant John Wagner ("Wagner") was, at all relevant times, the Chief Financial Officer of the Company, and signed or authorized the signing of the Company's Registration Statement filed with the SEC.

17. Defendant David Blundin ("Blundin") was a director of the Company and signed or authorized the signing of the Company's Registration Statement filed with the SEC.

18. Defendant Sanju Bansal ("Bansal") was a director of the Company and signed or authorized the signing of the Company's Registration Statement filed with the SEC.

19. Defendant John Lunny ("Lunny") was a director of the Company and signed or authorized the signing of the Company's Registration Statement filed with the SEC.

20. Defendant George Neble ("Neble") was a director of the Company and signed or authorized the signing of the Company's Registration Statement filed with the SEC.

21. Defendant John Shields ("Shields") was a director of the Company and signed or authorized the signing of the Company's Registration Statement filed with the SEC.

22. Defendant Mira Wilczek ("Wilczek") was a director of the Company and signed or authorized the signing of the Company's Registration Statement filed with the SEC.

23. Defendant David Mason (“Mason”) is General Counsel and Secretary of the Company and signed or authorized the signing of the Company’s Registration Statement filed with the SEC.

24. Defendants Birnbaum, Wagner, Blundin, Bansal, Lunny, Neble, Shields, Wilczek, and Mason are collectively referred to hereinafter as the “Individual Defendants.”

25. Defendant J.P. Morgan Securities LLC (“J.P. Morgan”) served as an underwriter for the Company’s IPO.

26. Defendant Merrill Lynch, Pierce, Fenner & Smith Incorporated (“Merrill Lynch”) served as an underwriter for the Company’s IPO.

27. Defendant Canaccord Genuity LLC (“Canaccord”) served as an underwriter for the Company’s IPO.

28. Defendant JMP Securities LLC (“JMP Securities”) served as an underwriter for the Company’s IPO.

29. Defendant Needham & Company LLC (“Needham”) served as an underwriter for the Company’s IPO.

30. Defendant Oppenheimer & Co. Inc. (“Oppenheimer”) served as an underwriter for the Company’s IPO.

31. Defendant Raymond James & Associates, Inc. (“Raymond James”) served as an underwriter for the Company’s IPO.

32. Defendant William Blair & Company, L.L.C. (“William Blair”) served as an underwriter for the Company’s IPO.

33. Defendants J.P. Morgan, Merrill Lynch, Canaccord, JMP Securities, Needham, Oppenheimer, Raymond James, and William Blair are collectively referred to hereinafter as the “Underwriter Defendants.”

CLASS ACTION ALLEGATIONS

34. Plaintiff brings this action as a class action pursuant to Federal Rule of Civil Procedure 23(a) and (b)(3) on behalf of a class, consisting of all persons and entities that

purchased or otherwise acquired EverQuote securities issued in connection with the Company's IPO. Excluded from the Class are Defendants, the officers and directors of the Company, at all relevant times, members of their immediate families and their legal representatives, heirs, successors, or assigns, and any entity in which Defendants have or had a controlling interest.

35. The members of the Class are so numerous that joinder of all members is impracticable. Throughout the Class Period, EverQuote's common shares actively traded on the NASDAQ. While the exact number of Class members is unknown to Plaintiff at this time and can only be ascertained through appropriate discovery, Plaintiff believes that there are at least hundreds or thousands of members in the proposed Class. Millions of EverQuote Class A common stock were traded publicly during the Class Period on the NASDAQ. Record owners and other members of the Class may be identified from records maintained by EverQuote or its transfer agent and may be notified of the pendency of this action by mail, using the form of notice similar to that customarily used in securities class actions.

36. Plaintiff's claims are typical of the claims of the members of the Class as all members of the Class are similarly affected by Defendants' wrongful conduct in violation of federal law that is complained of herein.

37. Plaintiff will fairly and adequately protect the interests of the members of the Class and has retained counsel competent and experienced in class and securities litigation.

38. Common questions of law and fact exist as to all members of the Class and predominate over any questions solely affecting individual members of the Class. Among the questions of law and fact common to the Class are:

(a) whether the federal securities laws were violated by Defendants' acts as alleged herein;

(b) whether statements made by Defendants to the investing public during the Class Period omitted and/or misrepresented material facts about the business, operations, and prospects of EverQuote; and

(c) to what extent the members of the Class have sustained damages and the proper measure of damages.

39. A class action is superior to all other available methods for the fair and efficient adjudication of this controversy since joinder of all members is impracticable. Furthermore, as the damages suffered by individual Class members may be relatively small, the expense and burden of individual litigation makes it impossible for members of the Class to individually redress the wrongs done to them. There will be no difficulty in the management of this action as a class action.

SUBSTANTIVE ALLEGATIONS

Background

40. EverQuote purports to be an online lead generation company specializing in leads for auto insurance.

The Company's False and/or Misleading Registration Statement and Prospectus

41. On June 27, 2018, the Company filed its final amendment to the Registration Statement with the SEC on Form S-1/A, which forms part of the Registration Statement. The Registration Statement was declared effective the same day.

42. On June 28, 2018, the Company filed its prospectus on Form 424B4 with the SEC, which forms part of the Registration Statement. In the IPO, the Company sold 4,687,500 shares of Class A common stock at a price of \$18.00 per share. The Company received proceeds of approximately \$84 million from the Offering. The proceeds from the IPO were purportedly to be used for working capital, capital expenditures, and general corporate purposes.

43. The Registration Statement was negligently prepared and, as a result, contained untrue statements of material facts or omitted to state other facts necessary to make the statements made not misleading, and was not prepared in accordance with the rules and regulations governing its preparation.

44. Under applicable SEC rules and regulations, the Registration Statement was required to disclose known trends, events or uncertainties that were having, and were reasonably likely to have, an impact on the Company's continuing operations.

45. The Registration Statement emphasized the Company's purportedly growing "quote request volume." For example, the Registration Statement stated: "***Our success depends in part on the growth of our consumer traffic, as measured by quote requests.*** We have historically increased consumer traffic to our marketplace" and "***plan to continue to increase consumer traffic*** by leveraging the features and growing data assets of our platform." The Registration Statement also claimed EverQuote had "***significantly increase[d] quote request volume*** while decreasing cost per quote request" and would "***expand revenue per provider by increasing . . . quote request volume.***" (Emphases added.)

46. The Registration Statement further touted year-over-year and quarterly increases in both revenue and quote request volume, stating in relevant part:

Quote Requests

Quote requests are consumer-submitted website forms that contain the data required to provide an insurance quote. As we attract more consumers to our platform and they complete quote requests, we are able to refer them to our insurance provider customers, selling more referrals while also collecting data, which we use to improve personalization, conversion rates and consumer satisfaction. As of April 30, 2018, our marketplace has converted more than 240 million consumer visits into over 35 million auto, home and life insurance quote requests. ***Our quote request volume grew from 1.8 million quote requests in 2013 to 12.1 million quote requests in 2017, representing a compound annual growth rate of 60.4%.***

Revenue increased by \$9.0 million from \$31.8 million for the three months ended March 31, 2017 to \$40.7 million for the three months ended March 31, 2018. The increase was due to an increase in revenue of \$5.2 million and \$3.8 million from our automotive and home and life insurance marketplace verticals, respectively. The increase in revenue from our automotive vertical was primarily ***due to*** an increase in revenue per quote request as a result of increased demand for consumer referrals by our insurance providers and to a lesser extent ***an increase in the volume of quote requests resulting from increased advertising to attract consumers.*** The increase in revenue from our home and life vertical was ***primarily driven by an increase in the volume of quote requests resulting from increased advertising to attract consumers.***

(Emphases added.)

47. The Registration Statement further touted a trend of exponential yearly growth in quote request volume, stating in relevant part:

	2013	2014	2015	2016	2017
Quote Requests	1,832,000	2,363,000	5,352,000	9,508,000	12,123,000

48. The Registration Statement also purported to warn of numerous potential risks that, *“if”* they were to occur, *“could”* or *“may”* adversely affect the Company, while failing to disclose that these very “risks” had already begun to materialize before the IPO. For example, the Registration Statement stated:

- *“[I]f* we are unable to attract consumers and convert them into quote requests . . . our business and financial results *may* be harmed.”
- “[W]e *could lose consumers* and *traffic to our websites could decrease*, any of *which could have a material adverse effect* on our business, financial condition and results of operations.”

49. The Registration Statement was materially false and misleading and omitted to state: (1) that the Company had implemented a strategy to moderate quote request volume to optimize pricing and margin; (2) that, as a result, profitability was declining; (3) that certain financial metrics were inflated ahead of the IPO; and (4) that, as a result of the foregoing, Defendants’ positive statements about the Company’s business, operations, and prospects, were materially misleading and/or lacked a reasonable basis.

The Subsequent Disclosures

50. On August 6, 2018, the Company revealed that quote request volume had worsened during second quarter 2018, with year-over-year growth rate of only 2.3% (down from the 14.3% first quarter 2018 growth rate touted in the Registration Statement) and, moreover to a ***quarterly decline of 12%***. During a conference call with investors and analysts to discuss the financial results, defendants admitted to taking steps in the second quarter (*i.e.*, before the IPO) to moderate quote request volume.

51. On this news, the Company’s share price fell \$3.00 per share, or nearly 20%, by

the beginning of September.

52. On November 12, 2018, the Company revealed that quote request volume had deteriorated further during the third quarter to a year-over-year 6% decline. During a conference call with investors and analysts to discuss the financial results, Defendant Birnbaum stated that, “[a]s reported in our last call, *in the second quarter, we intentionally moderated quote request volume growth* to better optimize pricing and margin.”

53. On this news, the Company’s share price fell \$5.76, nearly 50%, to close at \$6.15 per share on November 13, 2018, on unusually heavy trading volume.

54. By the commencement of this action, EverQuote stock was trading as low as \$5.55 per share, a nearly 70% decline from the \$18 per share IPO price.

FIRST CLAIM
Violation of Section 11 of the Securities Act
(Against All Defendants)

55. Plaintiff repeats and re-alleges each and every allegation contained above as if fully set forth herein, except any allegation of fraud, recklessness or intentional misconduct.

56. This Count is brought pursuant to Section 11 of the Securities Act, 15 U.S.C. § 77k, on behalf of the Class, against the Defendants.

57. The Registration Statement for the IPO was inaccurate and misleading, contained untrue statements of material facts, omitted to state other facts necessary to make the statements made not misleading, and omitted to state material facts required to be stated therein.

58. EverQuote is the registrant for the IPO. The Defendants named herein were responsible for the contents and dissemination of the Registration Statement.

59. As issuer of the shares, EverQuote is strictly liable to Plaintiff and the Class for the misstatements and omissions.

60. None of the Defendants named herein made a reasonable investigation or possessed reasonable grounds for the belief that the statements contained in the Registration Statement was true and without omissions of any material facts and were not misleading.

61. By reasons of the conduct herein alleged, each Defendant violated, and/or

controlled a person who violated Section 11 of the Securities Act.

62. Plaintiff acquired EverQuote shares pursuant and/or traceable to the Registration Statement for the IPO.

63. Plaintiff and the Class have sustained damages. The value of EverQuote Class A common stock has declined substantially subsequent to and due to the Defendants' violations.

SECOND CLAIM
Violation of Section 12(a)(2) of the Securities Act
(Against All Defendants)

64. Plaintiff repeats and re-alleges each and every allegation contained above, except any allegation of fraud, recklessness or intentional misconduct.

65. This Count is brought pursuant to Section 12(a)(2) of the Securities Act, on behalf of the Class, against all Defendants.

66. Defendants were sellers, offerors, and/or solicitors of purchasers of Class A common stock offered by EverQuote pursuant to the IPO. Defendants issued, caused to be issued, and/or signed the Registration Statement in connection with the Offering. The Registration Statement was used to induce investors, such as Plaintiff and other members of the Class, to purchase EverQuote securities.

67. The Registration Statement was inaccurate and misleading, contained untrue statements of material facts, omitted to state other facts necessary to make the statements made not misleading, and omitted to state material facts required to be stated therein.

68. Defendants' actions of solicitation included participating in the preparation of the false and/or misleading Registration Statement.

69. None of the Defendants named herein made a reasonable investigation or possessed reasonable grounds for the belief that the statements contained in the Registration Statement were true and without omissions of any material facts and were not misleading.

70. Plaintiff and other Class members did not know, nor could they have known, of the untruths and/or omissions contained in the Registration Statement.

71. By virtue of the conduct alleged herein, the Defendants are liable for the aforesaid wrongful conduct and are liable to Plaintiff and the Class for damages suffered.

THIRD CLAIM
Violation of Section 15 of the Securities Act
(Against the Individual Defendants)

72. Plaintiff repeats and re-alleges each and every allegation contained above as if fully set forth herein, except any allegation of fraud, recklessness or intentional misconduct.

73. This count is asserted against the Individual Defendants and is based upon Section 15 of the Securities Act.

74. The Individual Defendants, by virtue of their offices, directorship, and specific acts were, at the time of the wrongs alleged herein and as set forth herein, controlling persons of EverQuote within the meaning of Section 15 of the Securities Act. The Individual Defendants had the power and influence and exercised the same to cause EverQuote to engage in the acts described herein.

75. The Individual Defendants' positions made them privy to and provided them with actual knowledge of the material facts concealed from Plaintiff and the Class.

76. By virtue of the conduct alleged herein, the Individual Defendants are liable for the aforesaid wrongful conduct and are liable to Plaintiff and the Class for damages suffered.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for relief and judgment, as follows:

(a) Determining that this action is a proper class action under Rule 23 of the Federal Rules of Civil Procedure;

(b) Awarding compensatory damages in favor of Plaintiff and the other Class members against all defendants, jointly and severally, for all damages sustained as a result of Defendants' wrongdoing, in an amount to be proven at trial, including interest thereon;

(c) Awarding Plaintiff and the Class their reasonable costs and expenses incurred in this action, including counsel fees and expert fees; and

(d) Such other and further relief as the Court may deem just and proper.

JURY TRIAL DEMANDED

Plaintiff hereby demands a trial by jury.

Dated: _____, 2019

By: DRAFT

GLANCY PRONGAY & MURRAY LLP

Lionel Z. Glancy
Robert V. Prongay
Lesley F. Portnoy
Charles H. Linehan
Pavithra Rajesh
1925 Century Park East, Suite 2100
Los Angeles, CA 90067
Telephone: (310) 201-9150
Facsimile: (310) 201-9160

LAW OFFICES OF HOWARD G. SMITH

Howard G. Smith
3070 Bristol Pike, Suite 112
Bensalem, PA 19020
Telephone: (215) 638-4847
Facsimile: (215) 638-4867

Attorneys for Plaintiff _____