

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

CHRISTOPHER L. SAYCE, individually and on
behalf of all others similarly situated,

Plaintiff,

vs.

FORESCOUT TECHNOLOGIES, INC., *et al.*,

Defendants.

CASE NO.: 3:20-cv-00076-SI

CLASS ACTION

**NOTICE OF PENDENCY OF
CLASS ACTION**

**PLEASE READ THIS NOTICE CAREFULLY AND IN ITS ENTIRETY. YOUR RIGHTS
MAY BE AFFECTED BY PROCEEDINGS IN THIS ACTION.**

**TO: ALL PERSONS AND ENTITIES WHO PURCHASED OR OTHERWISE
ACQUIRED FORESCOUT TECHNOLOGIES, INC., COMMON STOCK
BETWEEN MAY 10, 2019 AND MAY 15, 2020, BOTH DATES INCLUSIVE.**

**Excluded from the Class are defendants, officers and directors of Forescout, any entity in
which the Defendants have or had a controlling interest, and affiliates, family members, legal
representatives, heirs, successors, or assigns of any of the above.**

**PLEASE NOTE: THIS CASE HAS NOT BEEN SETTLED. THIS NOTICE IS INTENDED
ONLY TO INFORM YOU THAT A CLASS ACTION IS CURRENTLY IN PROGRESS.
THERE IS NO CLAIM FORM TO BE MAILED.**

This Notice is issued pursuant to Rule 23 of the Federal Rules of Civil Procedure and an Order of the United States District Court for the Northern District of California (the “Court”), entered May 28, 2024, certifying the above-captioned action as a Class Action. The purpose of this Notice is to inform you of: (a) the pendency of the above-captioned class action (“Action”) before the Honorable Susan Illston of the Court; (b) the certification of the Class defined above, of which you may be a member (“Class Member”); and (c) your right to exclude yourself from (or “opt out” of) the Class. This Action has not been settled and continues to be litigated. Accordingly, there is no claim form to submit at this time.

This Notice is not an expression of any opinion by the Court as to the merits of any of the claims or defenses asserted by any party in this Action.

If you purchased Forescout Technologies, Inc., (“Forescout” or the “Company”) common stock during the period from May 10, 2019, through May 15, 2020, both dates inclusive (the “Class Period”), you may be a member of the Class. As a Class Member, you will be bound by the result of any trial of the Action, any judgment entered by the Court, and any determinations made by the Court, unless you timely mail a request for exclusion, as described below, postmarked no later than December 27, 2024.

DESCRIPTION OF THE ACTION

Summary of the Action

The Class Representatives in this Action are Glazer Capital Management, L.P., Glazer Enhanced Fund, L.P., Glazer Enhanced Offshore Fund, Ltd., Glazer Offshore Fund, Ltd., and Highmark Limited, in respect of its Segregated Account Highmark Multi-Strategy 2 (collectively “Glazer”), and Meitav Tachlit Mutual Funds Ltd., now known as Meitav Mutual Funds Ltd. (“Meitav”). The Court has appointed them to represent the Class, and they are referred to as “Plaintiffs” or “Lead Plaintiffs.”

The Defendants in this Action are Forescout, Michael DeCesare (“DeCesare”), who was Forescout’s Chief Executive Officer at all relevant times, and Christopher Harms (“Harms”), who was Forescout’s Chief Financial Officer at all relevant times. DeCesare and Harms are sometimes referred to as the “Individual Defendants” and the Individual Defendants and Forescout are collectively called the “Defendants.”

Lead Plaintiffs’ Second Amended Complaint (the “Complaint”) is the operative complaint in the Action. The remainder of this section describes Lead Plaintiffs’ allegations in the Complaint. The Court has not made any findings of fact.

Forescout, which provides cybersecurity services for large computer networks, became publicly traded through an initial public offering (“IPO”) in October 2017. The Company experienced strong revenue growth from 2014 through 2018. However, Plaintiffs allege that, between 2018 and 2020, customers increasingly sought cloud-based cybersecurity products that Forescout could not provide. Plaintiffs allege that, as a result, Forescout’s sales began to substantially decrease in 2019, and its rate of closed deals dramatically shrunk because customers believed that Forescout’s competitors offered a better product at a lower price. Plaintiffs allege that deals previously identified as “committed” in the Company’s sales pipeline began to evaporate, and that many sales personnel failed to meet their quotas and targets.

Plaintiffs allege that, on February 7, 2019, Defendants provided revenue guidance to investors of 24% annual growth 2019, the first public guidance issued by Forescout since its IPO. Plaintiffs allege that the Company’s quarterly results during 2019 were consistently and materially below the full year revenue guidance, which Defendants publicly attributed to a series of nonrecurring delays, including: bureaucratic delays in customers finalizing orders, a shift to a subscription revenue model and deteriorating macroeconomic conditions in the Europe, Middle East, and Africa (“EMEA”) region. Plaintiffs allege that analysis by a former Forescout employee in early 2019 of information received from a consulting firm Forescout had hired indicated that a majority of Forescout’s deals in the sales pipeline had only a 50% chance of closing yet Forescout identified the deals as “committed” in its sales pipeline. Plaintiffs allege that a new system for projecting future revenue at Forescout reflected that a very large number of sales recorded as “committed” by sales representatives were, in fact, highly unlikely to close. Plaintiffs allege that, beginning at least in February 2019, senior Forescout executives began a widespread pressure campaign, pressuring sales representatives to categorize deals as “committed” even where buyers had not yet made any such commitment to make a purchase so the Company could project continued rapid sales increases.

Plaintiffs allege that, on May 9, 2019, Defendants announced financial results for the first fiscal quarter of 2019 and also preannounced a lowered guidance range for the second quarter of 2019. Plaintiffs allege that Defendants claimed Forescout would still meet its revenue guidance for 2019 because the Company had already been awarded business despite some deals simply

having “slipped” to close later in the year. Plaintiffs allege that analysts repeatedly questioned Defendants about the basis for increasing the guidance despite the “slipped” deals, and Plaintiffs allege that Defendants repeatedly made concrete and material misrepresentations in response to those inquiries by stating that Forescout had “tech wins” with firm commitments from customers and that the Company’s sales pipeline was large and robust.

On August 7, 2019, Forescout announced its financial results for its second quarter of 2019 and held a conference call, during which, Plaintiffs allege that DeCesare claimed that Forescout’s rate of closing deals “remain[s] very strong” and “very healthy.” Plaintiffs allege that the challenged statements misrepresented the strength of the Company’s sales pipeline. Plaintiffs allege that, on August 12, 2019, Harms made allegedly false or misleading statements that Forescout raised its full year guidance for revenues in the second quarter of 2019 because “we still had great visibility into the rest of the year and still the confidence we have about how deals were taking shape” [sic] and that third quarter “was still very solid.”

On October 10, 2019, Forescout pre-announced preliminary financial results for the third quarter of 2019 that missed the low end of prior revenue guidance by over \$7 million, which Plaintiffs allege caused the price of Forescout common stock to decline by over 37%. Plaintiffs allege that Defendants again falsely claimed that the sales pipeline “continued to grow,” and deals had merely slipped again because of extended approval cycles due to poor economic conditions outside the United States.

On November 6, 2019, Forescout announced financial results for the third quarter of 2019, missing guidance by at least \$7.2 million on the low end. Plaintiffs allege that DeCesare again shifted blame from the U.S. market to “extended sales cycles” in the EMEA region for the revenue miss.

Plaintiffs allege that, in October 2019, Forescout put itself up for sale. Plaintiffs allege that there were certain revenue goals the Company needed to meet to make it an attractive acquisition candidate. Plaintiffs allege that Forescout produced these by showing moderately lower growth in revenue from prior year results for the fourth fiscal quarter of 2019 and providing projections to potential acquirers reflecting 14% growth in revenue for 2020 with steady annual revenue growth of approximately 15% thereafter.

Plaintiffs allege that, on February 6, 2020, Forescout announced disappointing fourth quarter 2019 results. On February 6, 2020, Forescout also announced that Advent International, Inc. (“Advent”), a private equity firm, had entered into a merger agreement to acquire Forescout for \$33 per share. Plaintiffs allege that the planned acquisition would have substantially enriched the Individual Defendants if it closed. Plaintiffs allege that Advent soon learned that the FY 2020 projections it was provided were inconsistent and materially higher than internal guidance. Plaintiffs allege that the Company then failed to meet even the lower revenue projection for the first quarter of FY 2020, reporting revenue representing a 24% decline from first quarter of FY 2019 revenue.

Plaintiffs allege that, on May 8, 2020, an Advent representative told DeCesare that Advent could not “make the numbers work” for the planned acquisition and expressed concerns about whether conditions precedent to the acquisition would be met.

Plaintiffs allege that, on May 11, 2020, Forescout disclosed its first quarter 2020 results, which were \$5 million less than guidance disclosed just eight days before the end of that quarter, which Plaintiffs allege caused the price of Forescout’s common stock to decline by nearly 5%. Plaintiffs allege that Forescout blunted a further decline in its stock price by quoting DeCesare in

its May 11, 2020 press release as stating that “we look forward to completing our pending transaction with Advent.”

Plaintiffs allege that, on May 15, 2020, Advent sent a letter explaining why it was refusing to proceed with the acquisition of Forescout. On May 18, 2020, Forescout disclosed that letter, which Plaintiffs allege caused Forescout’s stock price to plummet by nearly 24%.

Defendants deny the foregoing allegations. Defendants expressly have denied and continue to deny all charges of wrongdoing or liability against them arising out of any of the conduct, statements, acts, or omissions alleged in the Action. Defendants also have denied and continue to deny the allegations that the Class Representatives or members of the Class have suffered damages.

No trial has yet occurred in this Action and no findings of fault or liability have been made as to any of the parties.

Procedural Background

This Action was commenced on January 1, 2020, by Christopher Sayce (“Sayce”). Sayce alleged Defendants violated federal securities laws from February 7, 2019, through October 9, 2019. On July 22, 2020, the Court consolidated a related lawsuit into this Action, and appointed Meitav and Glazer as Co-Lead Plaintiffs.

On December 18, 2020, Meitav and Glazer filed a consolidated amended complaint alleging misstatements related to the sales pipeline, and the acquisition by Advent. The proposed class period was February 7, 2019, through May 15, 2020. Defendants moved to dismiss that consolidated amended complaint, and on March 25, 2021, the Court granted defendants’ motion to dismiss and granted Lead Plaintiffs leave to amend.

On May 10, 2021, Lead Plaintiffs filed a second consolidated amended complaint alleging misstatements relating to the same topics. Defendants again moved to dismiss, and, on October 6, 2021, the Court granted Defendants’ motion to dismiss with prejudice and without leave to amend.

Plaintiffs appealed but did not challenge the dismissal of claims related to statements made between February 7, 2019, and March 4, 2019 and did not challenge the dismissal of their claims that Forescout’s revenue guidance figures during the Class Period were false or misleading. On March 16, 2023, the Ninth Circuit affirmed in part, reversed in part, and remanded for further proceedings. The court reversed and remanded with respect to claims regarding the following challenged statements: “(1) the statements made on May 9, 2019, August 7, 2019, August 12, 2019, October 10, 2019, and November 6, 2019, asserting that (i) the disappointing second quarter performance was due to ‘slipped’ deals, (ii) the ‘slipped’ deals were ‘tech wins,’ (iii) the sales pipeline was large, healthy, and continuing to grow, and (iv) the third quarter revenue miss was due to delays in closing caused by economic conditions in the EMEA area; and (2) the May 11, 2020, press release stating that Forescout “look[ed] forward to completing [the] pending transaction with Advent.” Defendants answered the second consolidated amended complaint on June 16, 2023, denying the claims asserted against them and asserting a number of affirmative defenses.

On October 27, 2023, Lead Plaintiffs moved for class certification, and, on October 31, 2023, they amended that motion. After the motion was fully briefed, and after class-related discovery, the Court heard oral argument on May 17, 2024. On May 28, 2024, the Court certified the Class. By certifying the Class and ordering that this Notice be issued, the Court is not suggesting that the Class will win or lose this case. The Action is ongoing.

INSTRUCTIONS TO CLASS MEMBERS

If you fit the description of a Class Member, you have a choice whether to remain a member of the Class in this Action.

A. Remaining a Class Member

This Notice is sent to you on the belief, based on transfer agent records, that you may be a Class Member in this Action. If you wish to remain a Class Member, you are not required to do anything at this time. If you do nothing, you will remain a Class Member and will be bound by the result of any trial, judgment, and determination of the Court, whether favorable or unfavorable to the Class. If you choose to remain in the Class, you will not be able to pursue a lawsuit on your own with regard to any of the issues that were or could have been decided in this Action. As a Class Member, you will be represented by Class Counsel, identified below. If you remain in the Class, you are not personally responsible for any expenses or attorneys' fees. If there is a recovery, you may be entitled to share in the proceeds, less costs, expenses, plaintiff reimbursement awards, and attorneys' fees as the Court may allow out of any recovery.

There is no settlement or judgment in the case at this time. In the event of recovery, you will be able to share in a recovery in this case only if you are a member of the Class—*i.e.*, you do not exclude yourself—and only if you held Forescout stock during one or more of the price declines discussed above.

The Class is represented by:

POMERANTZ LLP

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B. Exclusion from the Class

If you desire to be excluded from the Class, you must state so **in writing**. Your request for exclusion must state: (i) your desire to be excluded from the Class, (ii) the name, mailing address, and email address of the person or entity requesting exclusion, (iii) that such person or entity requests exclusion from the Class in this Action, and (iv) the date(s), price(s), and number(s) of shares of all your purchases, acquisitions, and sales of Forescout common stock during the Class Period and provide copies of supporting documentation for those transactions during the Class Period. Do not send originals of supporting documentation. Requests for exclusion must be signed by the person or entity requesting exclusion from the Class. If you are signing on behalf of a Class Member (such as an estate, corporation, or partnership), please indicate your full name and describe the basis of your authority. Requests for exclusion must be transmitted by First-Class Mail or overnight delivery service to the following address:

NOTICE OF PENDENCY OF CLASS ACTION

QUESTIONS? PLEASE CALL 877-888-4839 OR VISIT WWW.FORESCOUTSECURITIESLITIGATION.COM.

Forescout Securities Litigation
ATTN: EXCLUSIONS
c/o A.B. Data, Ltd.
P.O. Box 173001
Milwaukee, WI 53217

**To be effective, your request for exclusion must be postmarked
no later than December 27, 2024.**

If you wish to participate in this Action, do not request exclusion. If you exclude yourself from the Class, you will not be bound by any judgment or decision by the Court in this Action, but you will also not be entitled to share in the benefits of any judgment favorable to the Class or from any Court-approved settlement on behalf of the Class, if any. If you request exclusion, you would be entitled to pursue any individual remedy which you may have, but only at your own expense and through your own counsel.

Your Right to Appear

If you do not request exclusion from the Class in the manner set forth above, you may, if you so desire, enter an appearance through an attorney of your own choice. If you wish, you may also consult with your own counsel concerning your rights in this Action.

If you do not timely request exclusion from the Class postmarked by December 27, 2024, you will be considered a Class Member, and you will be bound by any judgment in this Action and will not be able to pursue any individual remedy which you may have.

NOTICE TO BANKS, BROKERS, AND OTHER NOMINEES

If you held any Forescout common stock, purchased during the Class Period, as nominee for a beneficial owner, then, within ten (10) days after you receive this Notice, you must either: (1) provide a list of the names and addresses of such beneficial owners to the Notice Administrator, preferably in an MS Excel data table setting forth: (a) title/registration, (b) street address, and (c) city/state/zip; on electronic mailing labels in MS Word file (label size Avery #5162), or printed out on physical mailing labels; or (2) send copies of this Notice by First-Class Mail to all such beneficial owners, providing written confirmation to the Notice Administrator of having done so.

If you choose to mail the Notice yourself, you may obtain (without cost to you) as many additional copies of these documents as you will need to complete the mailing by either downloading a copy from the Notice Administrator's website, or by contacting the Notice Administrator at:

Forescout Securities Litigation
c/o A.B. Data, Ltd.
P.O. Box 173050
Milwaukee, WI 53217
info@ForescoutSecuritiesLitigation.com
www.ForescoutSecuritiesLitigation.com
877-888-4839

Whether you choose to complete the mailing yourself or elect to have the mailing performed for you, you may obtain reimbursement for reasonable administrative costs of complying with this provision, upon submission of appropriate documentation to the Notice Administrator.

EXAMINATION OF PAPERS AND INQUIRIES

For further information about the Action, you may contact Lead Counsel at the addresses listed above or consult the pleadings and other papers filed in the Action at the Office of the Clerk of the United States District Court for the Northern District of California, 450 Golden Gate Avenue, San Francisco, CA 94102-3489, during normal business hours. If you have an account with PACER, you may consult the pleadings and other papers via Electronic Case Filing at the website of the Northern District of California, <https://ecf.cand.uscourts.gov/>.

If you have questions concerning this case or your membership in the Class, please contact:

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**INQUIRIES SHOULD NOT BE DIRECTED TO THE COURT, THE
CLERK'S OFFICE, THE DEFENDANTS, OR DEFENDANTS' COUNSEL.**

NOTICE ADMINISTRATOR AND ADDRESS CORRECTIONS

If you have any corrections or changes of name or address, you may send them in writing to the Notice Administrator, either by email or by mail. The contact information for the Notice Administrator is set forth above. If you did not receive this Notice by mail, and you are and remain a member of the Class, please send your name and address to the Notice Administrator at the contact information above to ensure that you receive further notices disseminated in connection with the Action.

Dated: September 20, 2024

**By Order of the Court
United States District Court
Northern District of California**