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BY NYSCEF

Hon. Jennifer G. Schechter  
New York State Supreme Court  
New York County  
60 Centre Street  
New York, NY 10007

Re: Han v. Kwak, Index No. 654281/2018

Dear Justice Schechter:

I represent Janet Han, the Plaintiff in the above-titled action. I write to advise the Court that Plaintiff has elected the remedy of rescission on her claim for fraud in the above-titled action. Ms. Han understands that this election means that the case will proceed to a bench trial as opposed to a jury trial. *See, e.g., Williams v. Freeman*, 212 A.D. 316, 322 (1st Dep't 1925).

Based on my research at the Court's suggestion, I do not see any procedural impediment to Plaintiff proceeding to trial on her direct and derivative claims at the same time. *See, e.g., Beatrice Investments, LLC v. 511 9th LLC*, 177 A.D.3d 551, 551 (1st Dept 2019) ("Plaintiffs have sufficiently alleged both direct and derivative causes of action for breach of fiduciary duty"); *Davis v. Scottish Re Group Ltd.*, 159 A.D.3d 528, 529 (1st Dep't 2018) (permitting direct and derivative claims to proceed).

Sincerely,



Philip A. Wellner

Cc: Joshua S. Androphy, Esq. (via NYSCEF)  
Matthew Eyet, Esq. (via NYSCEF)