



IN THE CIRCUIT COURT
OF THE EIGHTH JUDICIAL CIRCUIT
IN AND FOR ALACHUA COUNTY, FLORIDA

Exactech Master Case

Master Case No. 2022 CA 002670
Applies to All Cases

ORDER APPOINTING PLAINTIFFS' LEADERSHIP

This matter having come before the court upon the Unopposed Motion to Appoint Plaintiff's Leadership Counsel filed on September 16, 2022 and having been advised as to the parties' agreement except concerns by Defense Counsel regarding language allowing delegating to committee members, the Court hereby ORDERS:

1. Plaintiffs' Leadership

a. Appointment of Counsel

The Court appoints the following attorneys as Co-Lead Counsel, Liaison Counsel, and Plaintiffs' Steering Committee ("PSC"), hereinafter also referred to as Plaintiffs' Leadership:

i. CO-LEAD COUNSEL FOR PLAINTIFFS:

1. Ilyas Sayeg, Esq.
Mctlaw
1605 Main Street
Suite 710
Sarasota, FL 34232
isayeg@mctlaw.com
888-952-5242
2. Joseph Saunders, Esq.
Saunders & Walker
3491 Gandy Blvd
Pinellas Park, FL 33781
joe@saunderslawyers.com
800-748-7115
3. C. Calvin Warriner, Esq.

Searcy Denney Scarola Barnhart & Shipley, PA
2139 Palm Beach Lakes Blvd
West Palm Beach, FL 33409
ccw@searcylaw.com
562-686-6300

ii. PLAINTIFFS' STEERING COMMITTEE

1. Nick Blanda, Esq.
Anderson Blanda & Saltzman
2010 W. Pinhook Rd
Lafayette, Louisiana 70508
nick@andersonblanda.com
(337) 233-3366

2. Edward "Ned" Mulligan V, Esq.
Cohen & Malad, LLP
One Indiana Square; Suite 1400
Indianapolis, IN 46204
nmulligan@cohenandmalad.com
(317) 636-6481

3. Jonathan A. Knoll, Esq.
Cohen & Malad, LLP
One Indiana Square; Suite 1400
Indianapolis, IN 46204
jknoll@cohenandmalad.com
(317) 636-6481

4. Brian Franciskato, Esq.
Nash & Franciskato Law Firm
Two Pershing Square
2300 Main Street
Suite 170
Kansas City, MO 64108
Bfranciskato@nashfranciskato.com
(877) 284-6600

5. Emily Acosta, Esq.
Martin Baughman
3141 Hood Street
Level 6
Dallas, TX 75219
eacosta@martinbaughman.com

(214) 761-6614

6. George Williamson, Esq.
Farr, Farr, Emerich, Hackett & Carr, PA
99 Nesbit St.
Punta Gorda, FL 33950
gwilliamson@farr.com
(941) 639-1158

7. Daniel Nigh, Esq.
**Levin, Papantonio, Rafferty, Proctor, Buchanan, O'Brien,
Barr, Mougey, PA**
345 Deer Point Dr
Gulf Breeze, FL 32561
dnigh@levinlaw.com
(850) 435 7013

8. Andrew Moore, Esq.
Morgan & Morgan
201 N. Franklin Street, 7th Floor
Tampa, FL 33602
andrewmoore@forthepeople.com
(813) 337-5086

9. John Bruegger, Esq.
Parafinczuk Wolf, P.A.
12747 Olive Boulevard, Suite 300
St. Louis, Missouri 63141
and
Pembroke Pines Professional Centre
9050 Pines Blvd., Suite 450-02
Pembroke Pines, Florida 33024
jbruegger@parawolf.com
(954) 678-0263

b. Designations and Future Changes in Leadership Structure

These designations are of a personal nature. This Court looks to these counsel to undertake personal responsibility to perform the designated functions and reserves the discretion to replace these counsel should they become unable or unwilling to do so, or should such other

circumstances arise that warrant the same. Plaintiffs' Leadership may, in the future and upon application and approval of the Court, expand the PSC and/or organize and create a multi-tiered leadership group, including but not limited to the addition of a Plaintiffs' Executive Committee ("PEC").

c. Duties and Responsibilities of Plaintiffs' Leadership Counsel

Co-Lead Counsel shall be charged with formulating and presenting Plaintiffs' positions on common substantive and procedural issues arising during these pretrial proceedings, and shall be deemed able to bind all plaintiffs' counsel to decisions regarding same. Co-Lead Counsel shall submit all motions and other matters and at least one of the Co-Lead Counsels shall attend status conferences and such other hearings or conferences as may occur. Co-Lead Counsel shall work with opposing counsel in developing and implementing a litigation plan to ensure pretrial proceedings are conducted effectively, efficiently, and economically. Co-Lead Counsel may delegate specific tasks to other counsel to further these prescribed goals.

Duties of Co-Lead Counsel may be delegated to members of the PSC (and the PSC if/when applicable) and include, but are not limited to, the following:

i. Administration

1. Call meetings of counsel for Plaintiffs for any appropriate purpose;
2. perform any task necessary and proper to accomplish its responsibilities as defined by the Court's orders, including assigning and delegating tasks and organizing a PSC;
3. monitor the activities of the PSC and other co-counsel to ensure that schedules are met, and unnecessary expenditures of time and funds are avoided;

4. maintain adequate files of all pretrial matters, including establishing and maintaining a document or exhibit depository, in either real or virtual format;
5. provide periodic reports to other counsel not on Plaintiffs' Leadership;
6. to coordinate services and filings;
7. to maintain and distribute to co-counsel and to Defendants' Counsel an up-to-date service list;
8. to receive and distribute all pleadings, all Court orders, and motions, provided all counsel shall continue to receive all notices through the Court's filing system;
9. to maintain in conjunction with their accountant records of receipts and disbursements advanced by members of the PSC (and PSC if/when formed) and submit reports related to disbursements and receipts;
10. to assess members of the PSC and act as treasurer for any common benefit assessments and expenses, which, shall be allocated to one of the PSC members, not all;
11. to maintain and make available to all Plaintiffs' counsel of record at reasonable hours a complete file of all documents served by or upon each party (except such documents as may be available at a document depository);

12. to be available for any telephone conferences convened by the Court and to communicate the substance of any such telephone conference to all other Plaintiffs' counsel; and
13. perform such other functions as may be expressly authorized by further orders of the Court.

ii. Discovery

1. Negotiate with Defendants and present to the Court a proposed pretrial discovery plan and bellwether trial proposal on behalf of all coordinated cases.
2. Initiate, coordinate, and conduct pretrial discovery on common issues applicable to all plaintiffs who file civil actions in this Court or are consolidated with this action and are part of this proceeding, including but not limited to general causation and liability issues;
3. develop and propose to the Court schedules for the commencement, execution, and completion of discovery on behalf of Plaintiffs;
4. initiate, coordinate, and cause to be issued in the name of all Plaintiffs the necessary discovery requests, motions and subpoenas pertaining to any witnesses and documents needed to properly prepare for the pretrial discovery of relevant issues; and
5. conduct all discovery in a coordinated and consolidated manner on behalf of and for the benefit of all Plaintiffs.

iii. Motion Practice and Hearings

1. Call meetings of counsel for Plaintiffs for any appropriate purpose, including coordinating responses to questions of other parties or of the Court. Initiate proposals, suggestions, schedules, or joint briefs, and any other appropriate matter(s) pertaining to pretrial proceedings;
2. submit and argue motions presented to the Court on behalf of all Plaintiffs as well as oppose, when necessary, any motions submitted by Defendants or third parties;
3. examine, or designate other counsel to examine, witnesses and introduce evidence at hearings on behalf of Plaintiffs; and
4. act or designate other counsel to act as spokesperson(s) for Plaintiffs at pretrial proceedings and in response to any inquiries by the Court.

iv. Contact with Defense Counsel

1. Initiate, coordinate and conduct (or designate others to do so) the requisite meet and confers with Defendants, confer with Defendants regarding procedural matters, and negotiate and enter into stipulations with Defendants regarding this litigation; and
2. Explore or designate other counsel to explore, develop and pursue settlement options with Defendants on behalf of Plaintiffs.

d. Communications with the Court

All communications from Plaintiffs with the Court regarding common issues and submitted via the master docket, *Exactech Master Case*, Case No: 2022 CA 002670, shall be through Co-Lead Counsel or the PSC. If circumstances require direct correspondence with the Court by an individual counsel via the master docket, copies of any such communications shall be simultaneously served upon the Plaintiff's Co-Lead Counsel and PSC.

e. No Waiver of Privilege

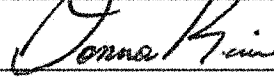
The Court recognizes that cooperation by and among plaintiffs' counsel is essential for the orderly and expeditious resolution of this litigation. The communication of information among and between plaintiffs' counsel shall not be deemed a waiver of the attorney-client privilege and/or the work product doctrine, if the privilege or doctrine is otherwise applicable, and all of such persons shall maintain the confidentiality of such communications. Cooperative efforts contemplated above shall in no way be used against any plaintiff by any defendant. Nothing contained in this provision shall be construed to limit the rights of any party or counsel to assert the attorney-client privilege or attorney work product doctrine.

f. Individual Claimants' Counsel Responsibility for Their Respective Clients.

Plaintiffs' Leadership does not have an attorney-client relationship with all plaintiffs by virtue of their leadership role prescribed under this Order. Under no circumstances is Plaintiffs' Leadership responsible for filings, discovery, or any other issue or matter related to an individual plaintiff's case or claim, and are in no way responsible for fulfilling the duties and responsibilities that an individual attorney or law firm owes their client(s) in the prosecution of their individual case(s).

DONE AND ORDERED in Chambers, Gainesville, Alachua County, Florida on this Tuesday, September 27, 2022.

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Donna M. Keim, Circuit Judge
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CERTIFICATE OF SERVICE

I DO HEREBY CERTIFY that a true and correct copy of the above has been e-filed through the e-portal and a copy of same has been provided to the below parties on this Tuesday, September 27, 2022.

isayeg@mctlaw.com; joe@saunderslawyers.com; calvinw@searcylaw.com;
nick@andersonblanda.com; bfranciskato@nashfranciskato.com;
nmulligan@cohenandmalad.com; jknoll@cohenandmalad.com; dnigh@levinlaw.com;
eacosta@martinbaughman.com; gwilliamson@farr.com; sechrest@fbslaw.com;
steve@rothenburglaw.com; bmartin@martinbaughman.com;
lbaughman@martinbaughman.com; jjohnson@searcylaw.com; mgoetz@forthepeople.com;
jbruegger@parawolf.com; andrewmoore@forthepeople.com;
bshapiro@bowmanandbrooke.com; jodi.schebel@bowmanandbrooke.com;
Sheryl.bjork@bowmanandbrooke.com; kirk.carter@bowmanandbrooke.com;

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Theresa Hall, Judicial Assistant
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