

United States District Court
Northern District of California

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

IN RE ANTHEM, INC. DATA BREACH
LITIGATION

Case No. 15-MD-02617-LHK

**ORDER APPOINTING LEAD
PLAINTIFFS' COUNSEL**

In an order dated July 6, 2015, the Court invited counsel for the various plaintiffs in this multidistrict litigation (“MDL”) to file motions to serve as lead plaintiffs’ counsel. ECF No. 16 at 3. The Court explained that the “chief criteria” the Court would consider in appointing lead plaintiffs’ counsel would be: (1) “Knowledge and experience in prosecuting complex litigation, including class actions”; (2) “Willingness and ability to commit to a time-consuming process”; (3) “Ability to work cooperatively with others”; and (4) “Access to sufficient resources to prosecute the litigation in a timely manner.” *Id.* These criteria largely track the four factors a district court must consider in appointing class counsel under Rule 23(g)(1)(A) of the Federal Rules of Civil Procedure. *See* Fed. R. Civ. P. 23(g)(1)(A).

On August 20, 2015, the Court received eighteen separate motions to serve as lead

1 plaintiffs' counsel in this action. ECF Nos. 166, 167, 169, 170, 175, 176, 181, 182, 184, 185, 186,
2 187, 188, 189, 190, 191, 192, 193. The Court received only one opposition brief, which was filed
3 by Robbins Geller Rudman & Dowd LLP on August 27, 2015. ECF No. 217. Between August
4 21, 2015, and September 3, 2015, the Court received numerous statements and notices filed in
5 support of various law firms. ECF Nos. 195, 196, 197, 198, 199, 200, 205, 213, 214, 215, 216,
6 223, 224, 241. On September 3, 2015, the Court received one reply, which was filed in support of
7 Edelson P.C.'s and Grant & Eisenhofer P.A.'s motion to serve as lead plaintiffs' counsel. ECF
8 No. 252. That same day, Federman & Sherwood filed a notice withdrawing its motion to serve as
9 lead plaintiffs' counsel. ECF No. 240. Federman & Sherwood's motion is therefore DENIED as
10 moot. *See* ECF No. 175.

11 Having reviewed all of these submissions, having heard the arguments at the September
12 10, 2015 hearing, and considering the criteria set forth in the Court's July 6, 2015 order as well as
13 the factors enumerated in Rule 23(g)(1)(A), the Court hereby GRANTS in part and DENIES in
14 part the motion to serve as lead plaintiffs' counsel filed by Eve Cervantez of Altshuler Berzon
15 LLP and Andrew Friedman of Cohen Milstein Sellers & Toll PLLC. *See* ECF No. 190. Ms.
16 Cervantez and Mr. Friedman have (1) performed considerable work in identifying or investigating
17 potential claims in this action; (2) demonstrated experience in handling complex class actions; (3)
18 shown adequate knowledge of the applicable law; and (4) established a willingness to commit
19 significant resources to representing the class. *See* Fed. R. Civ. P. 23(g)(1)(A). In addition, Ms.
20 Cervantez and Mr. Friedman have worked well together up to this point in their role as interim
21 plaintiffs' counsel and have proposed a specific plan of action for prosecuting this MDL. *See* ECF
22 No. 190 Ex. A. Ms. Cervantez and Mr. Friedman have also demonstrated a commitment to
23 maintain scrupulous, contemporaneous billing records of all time spent litigating this case, *see*
24 ECF No. 190 at 10, Ex. B, in compliance with this Court's July 16, 2015 order, *see* ECF No. 46.
25 For these reasons, the Court hereby APPOINTS Eve Cervantez of Altshuler Berzon LLP and
26 Andrew Friedman of Cohen Milstein Sellers & Toll PLLC as Co-Lead Plaintiffs' Counsel in this
27 MDL.

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To assist Ms. Cervantez and Mr. Friedman in their capacity as Co-Lead Plaintiffs’ Counsel, the Court hereby APPOINTS Eric Gibbs of Girard Gibbs LLP and Michael Sobol of Loeff Cabraser Heimann & Bernstein, LLP to a Plaintiffs’ Steering Committee. Mr. Gibbs and Mr. Sobol have considerable experience litigating privacy cases in this district. In the Court’s judgment, two Co-Lead Plaintiffs’ Counsel supported by a two-member Plaintiffs’ Steering Committee will best serve the interests of the putative class in this MDL. Nonetheless, the Court encourages Ms. Cervantez and Mr. Friedman to take advantage of the wealth of knowledge and expertise demonstrated by the other applicants in their moving papers and at the September 10, 2015 hearing. In this regard, the Court encourages Ms. Cervantez and Mr. Friedman, as needed, to consult with the other applicants regarding devising damages theories, retaining data security experts, litigating against the defendants in this case, and identifying and communicating with potential plaintiffs.

Having granted in part and denied in part the motion to serve as lead plaintiffs’ counsel filed by Ms. Cervantez and Mr. Friedman, the Court therefore DENIES the sixteen other pending motions to serve as lead plaintiffs’ counsel. ECF Nos. 166, 167, 169, 170, 176, 181, 182, 184, 185, 186, 187, 188, 189, 191, 192, 193.

IT IS SO ORDERED.

Dated: September 11, 2015



LUCY H. KOH
United States District Judge