

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

BRUCE FULMER,

Plaintiff,

v.

SCOTT W. KLEIN, *et al.*,

Defendants.

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Civil Action No. 3:09-CV-2354-N

**ORDER**

This Order addresses Plaintiff Bruce Fulmer’s motion to consolidate cases and to appoint interim class co-counsel [18]. The above-referenced actions allege breaches of fiduciary duties in violation of the Employee Retirement Income Security Act of 1974 (“ERISA”) involving the Idearc Savings Plan for Management Employees (“Management Plan”), the Idearc Savings and Security Plan for New York and New England Associates (“North Plan”), and the Idearc Savings and Security Plan for Mid-Atlantic Associates (“Mid-Atlantic Plan”)(collectively, the “Plan”). The Court has determined that the action captioned *Kopp v. Klein et al.*, 3:10-CV-0643-L shall be consolidated into the action captioned *Fulmer v. Klein et al.*, 3:09-CV-2354-N (the “Related Actions”). The Court has further determined that any substantially similar future actions shall also be consolidated with the Related Actions and that the appointment of interim class co-counsel is appropriate and consistent with Federal Rule of Civil Procedure 23(g) and the recommendations of the Manual for Complex Litigation (4<sup>th</sup> ed. 2004);

The Court therefore orders as follows:

**I. CONSOLIDATION OF RELATED ACTIONS**

1. This matter shall be identified as: *In Re: Idearc ERISA Litigation*, Master Docket: 3:09-CV-2354-N (the “Master Action”).

2. Any other actions now pending or hereafter filed in this District arising out of the same alleged facts and asserting the same claims as those which form the basis of the Master Action shall be consolidated with the Master Action for all purposes if and when the Court is apprised of them. The parties shall notify the Court of any other action which is pending in or filed outside of this District which may be related to the subject matter of the Master Action if and when they become aware of such actions. The parties reserve their rights to oppose any proposed consolidation of such actions.

3. The schedule set forth in the Amended Scheduling Order entered on April 6, 2010 (*Fulmer*, Dkt. #17) shall apply to the Master Action.

4. A Master Docket and a Master File are hereby established for the actions governed by this Order. Separate dockets shall continue to be maintained for each of the individual actions, and entries shall be made in the docket of each individual action in accordance with the regular procedures of the Clerk of Court, except as modified by this Order.

5. When a document is filed and the caption shows that it is applicable to the Master Action, the Clerk of the Court shall file such document in the Master File and note such filing on the Master Docket. No further copies need to be filed and no other docket entries need be made.

6. If and when a document is filed and the case caption shows that it is to be applicable to only one of the actions governed by this order, the Clerk of the Court will file and docket such document in both the Master File and that of the individual case.

7. If any other action arising out of the same alleged facts and asserting the same claims as those which form the basis of the Master Action is filed in this Court or transferred to this Court (a “Consolidated Action”), the Clerk shall: (a) file a copy of this Order in the separate file for the Consolidated Action; (b) mail a copy of this Order to counsel for the plaintiff(s) in the Consolidated Action; (c) mail a copy of this Order to counsel for each defendant in the Consolidated Action not already a party to any case then included in *In re Idearc ERISA Litigation*, Master Docket: 3:09-CV-2354-N; and (d) make an appropriate entry in the Master Docket.

8. The Court requests the assistance of counsel in calling to the attention of the Clerk the filing or transfer of any case which might be consolidated as part of *In re Idearc ERISA Litigation*, Master Docket: 3:09-CV-2354-N pursuant to the provisions of this Order.

9. All discovery taken in the Master Action will apply to any subsequently filed and Consolidated Actions, and the parties will not be required to repeat discovery already undertaken.

## **II. APPOINTMENT OF INTERIM COUNSEL**

10. Pursuant to Fed. R. Civ. P. 23(g), the law firms of Rigrodsky & Long, P.A. and the Egleston Law Firm are appointed interim co-lead counsel for the putative class.

11. Interim co-lead counsel is vested by the Court with the following responsibilities and duties with respect to the putative class:

(a) To coordinate the preparation and filing of a Consolidated Complaint and any subsequent pleadings;

(b) To coordinate the briefing and argument of all motions;

(c) To coordinate and conduct all discovery, pre-trial and trial proceedings for all plaintiffs;

(d) To call meetings of plaintiffs' counsel as they deem appropriate or necessary from time to time;

(e) To initiate and conduct all settlement negotiations for plaintiffs with counsel for defendants;

(f) To provide general coordination of activities of counsel on their side and to delegate work responsibilities to selected counsel as may be required; and

(g) To perform such other duties as may be expressly authorized by further order of the Court.

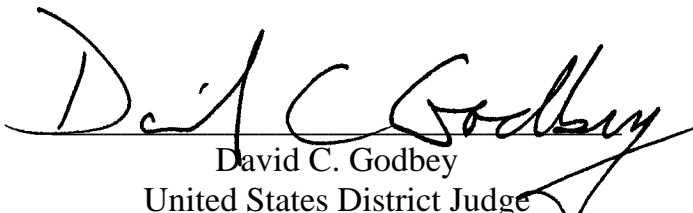
12. Interim co-lead counsel shall make all work assignments in such a manner as to conduct the orderly and efficient prosecution of this litigation and to avoid duplicative or unproductive effort.

13. Defendants' counsel may rely upon all agreements made with interim co-lead counsel and such agreements shall be binding on all plaintiffs.

14. No motion, request for discovery, or other pretrial proceeding shall be initiated or served by any plaintiff except through interim lead counsel.

15. Pursuant to Fed. R. Civ. P. 23(g), Roger F. Claxton is appointed interim liaison counsel for the putative class.

Signed August 10, 2010.

  
David C. Godbey  
United States District Judge