

INTRODUCTION AND EXECUTIVE SUMMARY

Designation of interim class counsel is an action a court may take to solve certain problems; specifically, the problems of (1) there being some articulated risk to the interests of the putative class if interim counsel is *not* designated, (2) such designation is necessary to have counsel that will prepare preliminary work and filings for class action certification, and (3) designation of interim counsel will establish a clear hierarchy when there are several *competing* attorneys and/or law firms involved. There are no such problems here (certainly, no such problems are raised in Plaintiff's Motion). In the absence of such problems, this Court should follow precedent and refrain from imposing an unnecessary and premature solution.

On January 2, 2025, Plaintiff filed its Original Class Action Complaint (Doc. 1) seeking, *inter alia*, declaratory and injunctive relief based on its incorrect allegations that the District's current well spacing requirements and regulations are illegal. (Pl.'s Orig. Compl. ¶¶ 2, 9–21.) Additionally, Plaintiff seeks class action certification under Federal Rule of Civil Procedure 23(b)(1)–(2). (Pl.'s Orig. Compl. at ¶¶ 29–30.) On March 13, 2025, the District filed its Original Answer (Doc. 7), *inter alia*, denying the alleged illegality of its well spacing requirements and regulations, as well as opposing Plaintiff's class action certification under Federal Rule of Civil Procedure 23(b)(1)–(2). (Def.'s Orig. Answer ¶¶ 16–17, 20–31.) On April 22, 2025, Plaintiff filed its Motion to Appoint Interim Co-Lead Class Counsel (Doc. 20) (the "Motion") under Federal Rule of Civil Procedure 23(g)(3), asking the Court to "appoint Marvin W. Jones and C. Brantley Jones of Sprouse Shrader Smith, PLLC, and Richard L.

Coffman of The Coffman Law Firm, as Interim Co-Lead Class Counsel.” (Pl.’s Mot. to Appoint Interim Couns. at 1.) The District opposes not only class action certification generally in this case (which question is not yet before this Court), but also the Motion because it is inappropriate, unnecessary, and premature.

The purpose and application of interim counsel designation under Rule 23(g)(3) is meant to (i) protect the interests of the putative class, (ii) prepare preliminary work and filings for class action certification, and (iii) streamline a clear hierarchy when there are several competing attorneys and/or law firms involved. These issues are not present and thus do not require any action in this case.

Here, Plaintiff has two sets of attorneys working in unity, cohesively and harmoniously—not multiple attorneys from different firms with different strategies—and there are no competing motions for interim counsel designation. The lack of any attorney-rivalry that might give rise to uncertainty and ineffectiveness for the putative class makes interim counsel designation entirely unnecessary, purposeless, and premature, if not prejudicial to the parties.

The natural cohesion and cooperation these existing attorneys have exhibited may, in fact, be most productive and beneficial for the putative class—rather than the arbitrary designation of attorney(s) or firm(s), which may rule by fiat and are given the power to override a potentially advantageous strategic suggestion by any non-interim counsel. In other words, if the court designates both already-performing sets of attorneys as interim co-lead counsel, such an action would (1) be circular since it is the status quo, (2) not provide any additional benefit to the putative class based

on the existing attorneys' cohesion, and (3) lead to confusion among the parties, as this case should not be certified as a class action at all and, therefore, designating interim counsel would be inappropriate.

A. The purpose behind interim counsel designation is to streamline pre-certification processes.

The Advisory Committee Notes for Federal Rule of Civil Procedure 23 indicate that interim counsel designation is appropriate when there is “rivalry or uncertainty” caused by a plaintiff’s or putative class’s competing attorneys and law firms. In such cases, interim designation would allow the interim counsel to “take action to prepare for certification decision[s],” “make or respond to motions before certification,” and conduct “[s]ettlement [negotiations] before certification.” Fed. R. Civ. P. 23 advisory committee’s notes to 2002 amendment. The Plaintiff and putative class are currently represented by attorneys from the Coffman Law Firm and Sprouse Shrader Smith PLLC. (Pl.’s Orig. Compl. at 18.) Those firms have thus far worked together as a cohesive unit; there is no indication that any rivalry, competition, or strife between the firms has or would cause any issues in performing those tasks cohesively. In fact, the only attorneys and firms representing the Plaintiff and putative class are the same attorneys seeking to be designated as co-lead interim counsel, and their record thus far is indisputably one of seamless cooperation. (*See* Pl.’s Mot. to Appoint Interim Couns. at 6) (“Proposed Leadership Counsel have collectively spent 285.4 hours [investigating the case’s claims, drafting filings for the case, conferring with defense counsel and] conferring with co-counsel regarding case strategy and case management.”)

On the occasions when courts have designated interim counsel and outlined interim counsel's tasks, many of those tasks are directly related to pre-certification processes. *Lockhart v. El Centro Del Barrio*, No. 5:23-cv-01156-JKP-ESC, 2024 U.S. Dist. LEXIS 103273, at *2 (W.D. Tex. Jun. 6, 2024) (pretrial preparation, scheduling, settlement negotiations, discovery); *Jones v. Singing River Health Servs. Found.*, No. 1:14CV447-LG-RHW, 2015 U.S. Dist. LEXIS 182691, at *19 (S.D. Miss. Jun. 5, 2015) (“[interim counsel would] be more readily accessible to the Court and the putative class.”); *Kirkpatrick v. HomeAway.com, Inc.*, No. 1:16-cv-00733-LY, 2018 U.S. Dist. LEXIS 226209, at *1 (W.D. Tex. Dec. 6, 2018) (convene meetings, communicate with defense counsel, conduct discovery, settlement negotiations). To date, not only have Plaintiff's counsel shown remarkable cooperation with one another, but they have already easily completed many of the pre-certification tasks that courts would normally outline, including, collectively (i) communicating with the Court and the District's counsel, (ii) filing a motion to withdraw application for temporary injunction, (iii) filing, along with the District's counsel, a joint Rule 26 report, (iv) filing a response to the District's motion for entry of scheduling order, (v) filing a motion to exceed page limits, (vi) filing a motion to appoint co-lead interim counsel under Rule 23(g)(3), and (vii) jointly appearing at the initial scheduling conference. These actions, along with Plaintiff's statements, demonstrate that the Plaintiff's attorneys are working as a unit and that any formal interim counsel designation is unnecessary and could not improve the effectiveness or efficiency of the putative class's interests by instituting a meaningless title.

Consistent with that track-record of action, Plaintiff affirmatively states that the proposed co-lead counsel already “operate as a cohesive, well-organized attorney group” and have the “ability to *work* well as a team, with opposing counsel, and with the Court.” (Pl.’s Mot. to Appoint Interim Couns. at 6, 17) (emphasis added on present tense.) These statements cement the fact that Plaintiff’s status quo already achieves what formal interim counsel designation has sought in other multi-plaintiff, contentious cases.

B. Courts have designated interim counsel when there are competing motions to designate [different] interim counsel(s), which are not present here.

Courts have cited multiple bases for denying a motion to designate interim counsel, including: (i) a plaintiff not showing such designation is “necessary to protect the interests of the putative class nor that the absence would prejudice the class” and (ii) “no indication of rivalry or uncertainty between the counsel groups representing Plaintiffs.” *Lee v. Samsung Elecs. Am., Inc.*, No. 4:21-cv-1321, 2023 U.S. Dist. LEXIS 37025, at *12 (S.D. Tex. Feb. 2, 2023). In *Lee*, the Southern District of Texas found that rather than a rivalry or uncertainty between counsel groups, the plaintiffs, in fact, stated that the attorneys were working cohesively (just like they have stated in the present case) and therefore no designation was necessary. *Id.* The same court had previously held that designation of interim counsel was appropriate “only when multiple suits have been filed and multiple plaintiff’s attorneys are competing for designation.” *Gedalia v. Whole Foods Mkt. Servs.*, No. 4:13-CV-03517, 2014 U.S. Dist. LEXIS 137427, at *4 (S.D. Tex. Sept. 29, 2014). This consideration of the threshold

issues necessary to support formal designation of interim counsel is consistent with other courts. *See Sullivan v. Barclays PLC*, 2013 U.S. Dist. LEXIS 83886, at *4 (S.D.N.Y. June 10, 2013) (“[t]here appear to be no competing counsel whose roles might complicate the efficient management of this case or result in duplicative attorney work . . . [w]hen a putative class action consists of a single case brought by two law firms working in apparent harmony, the rationale behind the appointment of interim class counsel is diminished.”); *LeBlanc v. Exxon Mobil Corp.*, No. 14-201-SDD-RLB, 2014 U.S. Dist. LEXIS 120602, at *4 (M.D. La. Aug. 29, 2014) (“[t]here are no other parallel cases involving any other named plaintiffs or any other attorneys . . . The attorneys in these consolidated cases are working jointly and intend to continue to do so. There are currently no competing counsel . . .”). The circumstances in *Sullivan* and *LeBlanc* are squarely on-point with the admitted and touted circumstances here.

In the few specific cases when Western District of Texas courts have granted a motion to designate interim counsel under Rule 23(g)(3), they have done so when there are multiple competing attorneys and firms involved in prosecuting the case. *See Lockhart*, 2024 U.S. Dist. LEXIS 103273, at *3 (three law firms where two are designated co-lead interim counsel); *Phillips v. Bay Bridge Adm’rs, LLC*, No. 1:23-CV-022-LY, 2023 U.S. Dist. LEXIS 80168, at *4 (W.D. Tex. Apr. 24, 2023) (four firms and two competing motions to designate interim counsel).²

² In the sole Western District case in which the court acted to designate interim class counsel without there being a clear rivalry of counsel, there were additional material factors (not present here) supporting the need and propriety of doing so. In the *CrowdStrike* case, Judge Pitman of the Western District of Texas evaluated a motion to designate interim

Here, no competition or rivalry exists. In its motion, Plaintiff celebrates this: “Proposed Leadership Counsel operate as a cohesive, well-organized attorney group.” (Pl.’s Mot. to. Appoint Interim Couns. at 6.) The facts, Plaintiff’s statements, and Plaintiff’s counsel’s actions indicate that there is no defect in prosecuting the putative class’s case that could possibly be (or needs to be) resolved by designating interim counsel. Because Plaintiff cannot show why interim counsel designation is necessary, this Court should deny the Motion. *Lee*, 2023 U.S. Dist. LEXIS 37025, at *11 (denying interim counsel designation because (1) “the only attorneys applying . . . are the attorneys of record,” (2) “no indication of rivalry or uncertainty between the counsel groups,” and (3) “Plaintiffs have neither shown interim counsel is necessary . . . nor that the absence would prejudice the class.”).

C. Plaintiff does not argue or explain *why* interim counsel designation is appropriate, beneficial, or necessary to protect the putative class’s interest.

In its entire motion, Plaintiff does not introduce any evidence or arguments as to *why* or *how* designation of interim counsel in alteration of the status quo would be beneficial or promote the putative class’s interests. Instead, Plaintiff seeks either (i) to litigate class certification in its motion (which is not merited and which the District wholly opposes) or (ii) to rely on arguments and caselaw that simply do not apply to

counsel. *Del Rio v. CrowdStrike, Inc.*, No. 1:24-CV-881-RP, 2024 U.S. Dist. LEXIS 203049, at *9 (W.D. Tex. Nov. 6, 2024). The Court granted the requested interim designation, noting circumstances that do not exist here: that the claims involved a “nationwide class action case” that “may raise complex factual issues or discovery disputes even at an early state, [and] that it would be helpful to the parties and to the Court to have a clear attorney leadership structure across the two plaintiff groups.” *Id.* Additionally, in that case, six law firms were involved on the plaintiffs’ side. *Id.* at *14. In contrast, this case concerns only issues within the District and involves only two, harmonious law firms working in unison.

the Plaintiff, the putative class, the attorneys, or this case generally; in fact, the caselaw Plaintiff cites supports denial of the Motion.

First, Plaintiff cites and partially quotes *Ramirez v. J.C. Penney Corp. Inc.*, No. 6:14-CV-601, 2014 U.S. Dist. LEXIS 198780, at *1–2 (E.D. Tex. Aug. 20, 2014). In *Ramirez*, the Court did not grant a motion to designate interim *co-lead counsel*. *Id.* at *4. Instead, it granted a motion to designate interim *liaison* class counsel and interim *local* class counsel in a nationwide class action involving a class of 168,372 individuals that participated in the defendant’s ERISA-plan. *Id.* at *5; Pl.’s Orig. Compl. ¶ 30. In its partial quotation of that opinion, Plaintiff’s Motion omits an integral component of the Court’s concise, five-page opinion: “[f]urther, with the separate and distinct securities class action also pending before this Court, appointing interim counsel at this early stage will protect the interest of the proposed ERISA class . . .” (Pl.’s Mot. to Appoint Interim Couns. at 4); *Ramirez*, 2014 U.S. Dist. LEXIS 198780, at *5 (emphasis added on portion of quotation omitted in the Motion). There are many features of the *Ramirez* case conspicuously absent from the present case: (1) a nationwide class-action, (2) with a similarly-captioned securities-related class action before the *same* court, and (3) a putative class of over 100,000 members—particularly distinct from the current case as Plaintiff has not yet specifically identified a single, additional class member to date (and certainly not any such member whose interests are subject to any confusion or multiplicity of ostensible alternate counsel).

Second, Plaintiff relies on several cases outside the Fifth Circuit that do not, in fact, support its position. Plaintiff cites an Eastern District of Missouri case, *Roe v. Arch Coal, Inc.*, to support the proposition that designation of interim class counsel is appropriate even in the absence of counsel competition for designation. (Pl.’s Mot. to Appoint Interim Couns. at 4 (citing No. 4:15-cv-910, 2015 U.S. Dist. LEXIS 148057, at *3 (E.D. Mo. Nov. 2, 2015))). However, in *Arch Coal, Inc.*, when granting Plaintiff’s motion to designate interim counsel, the court took into account and agreed with the plaintiff’s “assert[ion] that other law firms are investigating whether to file suit against [defendant] for [the same claim] *and thus constitute potential competition* for lead counsel.” 2015 U.S. Dist. LEXIS 148057, at *8 (emphasis added).³ No such potential competition is cited here. Additionally, the next case cited, *Szymczak v. Nissan N. Am., Inc.*, involved three, originally separate but then consolidated, cases with common questions. No. 10 CV 7493 (VB), 2012 U.S. Dist. LEXIS 78285, at *6 (S.D.N.Y. May 15, 2012). No circumstance even similar to that is present here.

Plaintiff also places emphasis, even attaching an order as its Exhibit D, on a Northern District of Illinois case, *In re PVC Pipe Antitrust Litigation*, No. 24-C-07639 (N. D. Ill Oct 17, 2024). Plaintiff however does not fully and accurately represent to this Court the facts and timeline surrounding that Court’s order. Rather than an expansive discussion of the differences from this case, the District will simply note

³ Plaintiff’s synopsis of that case as “finding it in the best interest of the class to appoint interim class counsel for purposes of efficient case management even when no other counsel competed for appointment” is not found in this case. As discussed, the court in that case did find that there was potential competition based on other potential class members’ attorneys’ investigation(s).

two decisive components omitted from Plaintiff's discussion: (1) the nationwide class action, encompassing litigants in at least 29 states, was so convoluted that, after the Court consolidated three separately filed cases, the case's "class" was classified as two separate classes: (i) the Non-Converter Seller Purchaser Class and (ii) the Direct Purchaser Class, and (2) on the same day of the Court's order, which Plaintiff attached as Exhibit D, the Court also issued an amended order, attached hereto as Exhibit 1, designating three separate law firms as co-lead counsel and liaison counsel for the Non-Converter Seller Purchaser Class in the same case.⁴ Joint Status Report at 4, *In re PVC Pipe Antitrust Litigation*, No. 24-C-07639. That complex, multi-plaintiff, and multi-defendant nationwide class(es) action is illustrative of the particular kind of case that might be appropriate for interim counsel designation and showcases why *this* case is not—there are no other pretenders to "class counsel's" throne.

Third, although Plaintiff correctly cites the standards in Federal Rule of Civil Procedure 23(g)(1)(A) that courts use to analyze and determine suitability of interim (and certified) class counsel, Plaintiff does not explain or offer evidence as to *why* interim counsel is necessary or beneficial in *this* case. Unlike in *Arch Coal, Inc.*, Plaintiff does not cite evidence of, for example, whether other class members' counsel

⁴ In addition to the points above, the PVC pipe class action's docket itself is over 20 pages and involves *dozens* of attorneys for both the plaintiffs and defendants. Civil Docket for Case 1:24-CV-07639, *In re PVC Pipe Antitrust Litigation*, (N.D. Ill. Apr. 23, 2025), https://ecf.ilnd.uscourts.gov/cgi-bin/DktRpt.pl?186503535174603-L_1_0-1. Lastly, the Court to this day is considering and reviewing briefs on designating different interim co-lead counsel for the Direct Purchaser Class. *E.g.*, Opp. Mot. by Direct Purchaser Pl. to Appoint [different] Co-Lead Couns., *In re PVC Pipe Antitrust Litigation*, No. 1:24-CV-07639 (N. D. Ill. Apr. 9, 2025) (caption partially omitted).

are investigating like-claims and whether such investigations or possible claims would present competition or conflict.

Before a court designates suitable interim counsel, it must first determine *whether* interim counsel is appropriate or necessary to begin with. Otherwise, since Plaintiff seeks to designate its exact, existing counsel as interim counsel, the Court's analysis is a non-starter, considering that there are no other options/risks Plaintiff presents—either Plaintiff's existing counsel is designated as interim co-lead counsel or no counsel is formally designated based on the Motion.

As discussed in Parts I and II, there is no rationale requiring or even supporting designating interim counsel at this point. Plaintiff's attorneys include two firms (and only those two firms) that work harmoniously—the same scenario the Motion seeks to implement—resulting in no practical change in the putative class's leadership structure as it would be joint control before the Motion or after. Furthermore, designation only serves to confuse the issue by prematurely, without any discernible benefit, designating interim class counsel before Plaintiff meets its burden of class certification under Rule 23.

D. Discussion of Federal Rule of Civil Procedure 23(g)(1)(A)–(B) is premature and not relevant.

Because this Motion and its request are unnecessary and premature, the District will not burden the Court with a lengthy discussion of whether or not Plaintiff's current counsel are qualified and suitable as eventual class counsel, which the District will contest when or if the Court considers attempted certification of a class at a later date. Instead, the District's Response focuses solely on the point that

current law establishes the parameters of when designation of interim counsel is appropriate, and those parameters are not in play here. The caselaw, including Plaintiff's cited caselaw, consistently holds that when there are multiple plaintiffs and, especially, multiple disparate attorneys vying or currently representing the putative class, *then* interim counsel designation may be appropriate and assists in streamlining pre-class certification process(es). As shown above, this case, which currently has only one plaintiff and class member who is represented by the same "cohesive, well-organized attorney group" it seeks to designate as interim counsel, is not suitable for either class certification at any time or interim counsel designation at this time. (Pl.'s Mot. to Appoint Interim Couns. at 6.)

CONCLUSION AND PRAYER

Plaintiff has not established or proven to the Court why interim counsel designation under Federal Rule of Civil Procedure 23(g)(3) is necessary or proper under the operative legal standard, or even how designation today could be beneficial to the Plaintiff's or putative class's interests. As such, the granting of this motion would be premature and would only confuse the parties by needlessly re-titling the current, harmonious attorneys of record for Plaintiff and the putative class. As such, the District respectfully requests this Court deny Plaintiff's Motion to Appoint Interim Co-Lead Counsel, without prejudice to re-filing same should circumstances materially change in the future.

Respectfully submitted,

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ATTORNEYS FOR DEFENDANT

CERTIFICATE OF SERVICE

I hereby certify that on this 29th day of April, 2025, I caused a true and correct copy of the foregoing to be transmitted by the Court's electronic filing system to the parties listed below:

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EXHIBIT 1

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

In re PVC Pipe Antitrust Litigation

Case No. 24 C 7639

Hon. LaShonda A. Hunt

THIS DOCUMENT RELATES TO:

The Non-Converter Seller Purchaser Class

**AMENDED ORDER APPOINTING LOCKRIDGE GRINDAL NAUEN PLLP AND
SCOTT+SCOTT ATTORNEYS AT LAW LLP AS CO-LEAD CLASS COUNSEL AND
COHEN MILSTEIN SELLERS & TOLL PLLC AS LIAISON COUNSEL**

This matter having come before the Court regarding the appointment of co-lead class counsel and liaison counsel on behalf all purchasers of PVC Pipes through a non-converter seller (hereinafter, the “Proposed Class”); Plaintiffs’ counsel having submitted a Motion to Appoint Lockridge Grindal Nauen PLLP and Scott+Scott Attorneys at Law LLP Co-Lead Class Counsel Pursuant to Federal Rule of Civil Procedure 23(g) on September 26, 2024 (the “Motion”); the Court having reviewed the submissions by counsel and considered the factors outlined in Rule 23(g) of the Federal Rules of Civil Procedure; and having found that the Motion presents highly skilled counsel with diverse backgrounds and experience which will provide the Court with an effective structure to advance this litigation in an efficient and just manner, and for good cause shown the Court hereby appoints the following:

A. Co-Lead Class Counsel

- Lockridge Grindal Nauen PLLP
- Scott+Scott Attorneys at Law LLP

B. Liaison Counsel

- Cohen Milstein Sellers & Toll PLLC

C. Duties of Co-Lead Class Counsel

1. It shall be Co-Lead Class Counsel's duty to determine and present to the Court and opposing parties the position of Plaintiffs on all matters arising from pretrial proceedings. This includes the duty to coordinate the responsibilities of the attorneys, appear at periodic court-noticed status conferences, and to perform other necessary substantive, administrative, or logistical functions to ensure the work in this case is conducted in an efficient and professional manner. Co-Lead Class Counsel may call upon such other counsel as they deem necessary to effectively and efficiently prosecute this matter, subject to the guidelines provided in Exhibit C to the Declaration of Brian D. Clark in Support of Memorandum of Law in Support of Motion to Appoint Co-Lead Class Counsel.

2. Co-Lead Class Counsel duties include conducting the litigation and coordinating the efforts in conducting the litigation, including, but not limited to, the following:

a. Discovery

- i. Initiate, coordinate, and conduct all pretrial discovery on behalf of all Class Plaintiffs who file actions in this Court or that are transferred to this Court pursuant to 28 U.S.C. § 1404 related to Defendants' alleged price-fixing conspiracy.
- ii. Develop and propose to the Court schedules for the commencement, execution, and completion of all discovery on behalf of the Class.
- iii. Initiate, coordinate, and cause to be issued in the name of the Class the necessary discovery requests, motions, and subpoenas pertaining to any witness and documents needed to properly prepare for trial or relevant issues found in the pleadings of this litigation.

- iv. Identify witnesses to be noticed for deposition, schedule witness depositions, and determine the lead examiner(s) for each noticed deposition.
 - v. Ensure that all discovery is conducted in a coordinated, efficient, and consolidated manner on behalf and for the benefit of all members of the Class.
- b. Conduct Motion Practice, Hearings, and Meetings
- i. Submit any motions presented to the Court on behalf of all members of the Class as well as oppose, when necessary, any motions submitted by the Defendants or non-parties.
 - ii. Initiate proposals, suggestions, schedules, or joint briefs, and any other appropriate matter(s) pertaining to pretrial proceedings.
 - iii. Examine witnesses and introduce evidence at hearings on behalf of the Class.
 - iv. Act as spokesperson(s) for the Class at pretrial proceedings and in response to any inquiries by the Court.
- c. Contact with Defense Counsel
- i. Initiate, coordinate, and conduct the requisite meet and confers with Defendants, confer with Defendants regarding procedural matters, and negotiate and enter into stipulations with Defendants regarding this litigation.
 - ii. Explore or designate other counsel to explore, develop, and pursue settlement options with Defendants on behalf of the Class.

- d. Maintain adequate contemporaneous time and cost records overseeing services as Co-Lead Class Counsel.
- e. Trial
 - i. Oversee the trial strategy and act as trial counsel.
- f. Administrative Duties
 - i. Serve as the recipient of all Court Orders;
 - ii. Coordinate services and filings;
 - iii. Make themselves available for any telephone conferences convened by the Court;
 - iv. Act as the Class's treasurer for any common benefit fund and/or assessments;
 - v. Call upon additional counsel, as needed, to perform work under direction from Co-Lead Class Counsel; and
 - vi. Carry out such other duties as the Court may order.

3. Communications with the Court: All communications from the Class with the Court should be through Co-Lead Class Counsel or Liaison Counsel. If circumstances require direct correspondence with the Court by an individual counsel, copies of any said communications shall simultaneously be served upon Plaintiffs' Co-Lead Class Counsel.

4. In no event shall any document be filed, or any discovery be served, on behalf of the Class without the approval of Co-Lead Class Counsel or leave of Court; any such filing or served document may be stricken.

D. Responsibilities of Plaintiffs' Class Liaison Counsel

1. Liaison Counsel shall:

- a. Receive and, as appropriate, distribute to co-counsel orders from the Court and documents from opposing parties and counsel;
- b. Coordinate service and filings for Class Plaintiffs;
- c. Receive and distribute pleadings, Orders, and motions;
- d. Maintain and distribute to co-counsel and to Defendants' Counsel an up-to-date service list; and
- e. Perform work under the direction of Co-Lead Counsel and carry out any other duties requested by Co-Lead Counsel, or ordered by the Court.

E. Common Benefit Time and Expenses

1. Plaintiffs' Co-Lead Class Counsel shall follow the proposal they submitted in their application for appointment of leadership (ECF No. 112-3, Ex. C) that provides the standards and procedures to be used by any counsel seeking fees and expenses for work performed in this case on behalf of the Class.

2. Once such protocol is approved by the Court, Co-Lead Class Counsel shall be responsible for collecting monthly detailed, itemized time and expense reports from all counsel performing work on behalf of the Class. Co-Lead Class Counsel is responsible for auditing and approving such time and expenses in a manner that ensures that this litigation is conducted in a cost-effective manner on behalf of the Class.

Dated: October 17, 2024

ENTERED:



LASHONDA A. HUNT
UNITED STATES DISTRICT JUDGE

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION**

FAZZINO INVESTMENTS, LP	§	
for itself and all others similarly	§	
situated,	§	
	§	
<i>Plaintiffs,</i>	§	
	§	
v.	§	CASE NO. 6:25-cv-00001-ADA-DTG
	§	
BRAZOS VALLEY GROUNDWATER	§	
CONSERVATION DISTRICT,	§	
	§	
<i>Defendant.</i>	§	

**[PROPOSED] ORDER DENYING
PLAINTIFF’S MOTION TO APPOINT INTERIM CO-LEAD CLASS COUNSEL**

ON THIS DAY, the Court considered Plaintiff’s Motion to Appoint Interim Co-Lead Class Counsel in the above captioned case. After considering Defendant’s Motion, the Court concludes that it should be, and therefore is, DENIED.

It is therefore ORDERED that Plaintiff’s Motion to Appoint Interim Co-Lead Class Counsel is DENIED.

SO ORDERED on this the _____ day of _____, 2025.

HON. DEREK T. GILLILAND
UNITED STATES MAGISTRATE JUDGE