

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No.	SACV 13-1757 AG (ANx)	Date	February 14, 2014
Title	TATIANA VON SLOMSKI v. THE HAIN CELESTIAL GROUP, INC.		

Present: The Honorable	ANDREW J. GUILFORD
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Lisa Bredahl	Not Present	
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Deputy Clerk	Court Reporter / Recorder	Tape No.
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Attorneys Present for Plaintiffs:

Attorneys Present for Defendants:

Proceedings: [IN CHAMBERS] ORDER CONSOLIDATING CASES

Plaintiffs in two putative class actions—*Tatiana Von Slomski v. The Hain Celestial Group, Inc.*, Case No. SACV 13-1757 AG (ANx); and *Sylvia Trevino v. The Hain Celestial Group, Inc.*, Case No. CV 13-8559 AG (ANx)—filed a Joint Motion for an Order (1) Consolidating Cases, and (2) Appointing Interim Co-Lead Counsel (“First Motion”). (First Motion, Dkt. No. 8.) The *Von Slomski* and *Posner* plaintiffs seek to consolidate these two cases along with two other class actions: *Michael Posner v. The Hain Celestial Group, Inc.*, Case No. CV 13-9310 AG (ANx); and *Richard B. Levin v. The Hain Celestial Group, Inc.*, Case No. CV 13-9314 AG (ANx). They also seek to appoint the law firms Ahdoot & Wolfson, P.C. and Ridout Lyon + Ottoson, LLP as interim co-lead class counsel.

The plaintiffs in the *Posner* and *Levin* cases have filed a competing Motion for an Order: (1) Consolidating Cases; and (2) Appointing Glancy Binkow & Goldberg LLP and Finkelstein Thompson LLP as Interim Counsel (“Second Motion”). (Second Motion, Dkt. No. 11.) These plaintiffs agree that all four cases should be consolidated. But they request the appointment of different law firms as interim co-lead counsel.

After considering the parties’ papers and holding a hearing on the motions, the Court

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GRANTS both motions as to consolidation, GRANTS the First Motion as to appointment of interim counsel, and DENIES the Second Motion as to appointment of interim counsel.

CONSOLIDATION OF CASES

Federal Rule of Civil Procedure 42(a) provides that when “actions before the court involve a common question of law or fact,” the court may order a joint hearing or trial of any or all the matters at issue in the actions; it may order all the actions consolidated; and it may make such orders concerning proceedings therein as may tend to avoid unnecessary costs or delay. Once a party has established a common question of law or fact, “consolidation is within the broad discretion of the district court.” *Paxonet Commc’ns, Inc. v. Transwitch Corp.*, 303 F. Supp. 2d 1027, 1028-29 (N.D. Cal. 2003).

All four cases are putative class actions alleging that Defendant Hain Celestial Group falsely marketed its tea as “100% Natural.” All plaintiffs and the Defendant agree that common questions of law and fact exist and that consolidation is appropriate. The Court GRANTS the First Motion and Second Motion as to consolidation, and CONSOLIDATES the four actions.

APPOINTMENT OF COUNSEL

Under Federal Rule of Civil Procedure 23(g)(3), a court may “designate interim counsel to act on behalf of a putative class before determining whether to certify the class.” Courts have held that the same factors that apply in choosing class counsel *after* class certification should apply in choosing interim class counsel. *See In re Air Cargo Shipping Serv. Antitrust Litig.*, 240 F.R.D. 56, 57 (E.D. N.Y. 2006).

These factors are:

- (i) the work counsel has done in identifying or investigating potential claims in the action;

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(ii) counsel’s experience in handling class actions, other complex litigation, and the types of claims asserted in the action;

(iii) counsel’s knowledge of the applicable law; and

(iv) the resources that counsel will commit to representing the class.

Fed. R. Civ. P. 23(g)(1)(A)(i)-(iv).

Either set of law firms would adequately represent the putative class. But the Court must choose. Weighing all of the Rule 23(g) factors, and recognizing that the call is a close one, the Court GRANTS the First Motion as to appointment of counsel, and APPOINTS Ahdoot & Wolfson, P.C. and Ridout Lyon + Ottoson, LLP as interim co-lead class counsel.

DISPOSITION

The Court GRANTS both motions as to consolidation, GRANTS the First Motion as to appointment of interim counsel, and DENIES the Second Motion as to appointment of interim counsel. The four cases are consolidated, and Ahdoot & Wolfson, P.C. and Ridout Lyon + Ottoson, LLP will serve as interim co-lead class counsel.

The Consolidated Complaint must be filed within 30 days of this Order. Any motion to dismiss must be filed within 30 days of the filing of the Consolidated Complaint.

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Initials of Preparer	<u>lmb</u>
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