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UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

)	
IN RE: CENTURLINK SALES)	File No. 17-md-2795
PRACTICES AND SECURITIES)	(MJD/KMM)
LITIGATION)	
)	
)	Courtroom 13E
)	Minneapolis, Minnesota
)	Wednesday, March 6, 2019
)	9:38 a.m.
)	

BEFORE THE HONORABLE MICHAEL J. DAVIS
UNITED STATES DISTRICT COURT SENIOR JUDGE

MOTIONS HEARING ON DOCKET NOS. 330, 332, 342

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7 * * *

8
9 **P R O C E E D I N G S**

10 **IN OPEN COURT**

11 * * *

12 THE COURT: Good morning. Please be seated.

13 Let's call this matter, these matters.

14 COURTROOM DEPUTY: In Re: CenturyLink Residential
15 Customer Billing Disputes Litigation, MDL No. 17-2795.

16 Counsel, please state your appearances for the
17 record.

18 MR. AGUILAR: Good morning, Your Honor. George
19 Aguilar from the law firm of Robbins Arroyo for plaintiff
20 Edward Tansey.

21 THE COURT: Good morning.

22 MR. BLANCHFIELD: Good morning, Your Honor.
23 Garrett Blanchfield from Reinhardt Wendorf & Blanchfield
24 also on behalf of plaintiff Edward Tansey.

25 THE COURT: Good morning.

1 MR. EAGEL: Good morning, Your Honor. Lawrence
2 Eagel, Bragar Eagel & Squire, for plaintiff Tim Ault. With
3 me is Seth Leventhal for plaintiff Tim Ault.

4 THE COURT: Good morning.

5 MR. FEDERMAN: Good morning, Your Honor. William
6 B. Federman, Federman & Sherwood, on behalf of plaintiff
7 Inter-Marketing Group.

8 THE COURT: Good morning.

9 MR. PERRY: Good morning, Your Honor. Shawn
10 Perry. I am local counsel from Perry & Perry on behalf of
11 Gainey McKenna & Egleston. T.J. McKenna or Thomas J.
12 McKenna is to my right.

13 MR. MCKENNA: Good morning, Your Honor.

14 THE COURT: Good morning.

15 MR. MCNAB: Good morning, Judge Davis. Bill
16 McNab, Winthrop & Weinstine, on behalf of defendant
17 CenturyLink and the individual director defendants.

18 THE COURT: Good morning.

19 MR. GIBBS: Good morning, Your Honor. Patrick
20 Gibbs from Cooley also for defendants.

21 THE COURT: Good morning.

22 MS. LIGHTDALE: Good morning, Your Honor. Sarah
23 Lightdale from Cooley also for the defendants.

24 THE COURT: Good morning.

25 Would you call the other matter too?

1 COURTROOM DEPUTY: The Tansey?

2 THE COURT: Did they give you a number on it?

3 COURTROOM DEPUTY: Pardon me?

4 THE COURT: Did they give you a number on it?

5 (Off-record discussion between court and courtroom deputy.)

6 COURTROOM DEPUTY: Tansey versus Perry, et al.,
7 Civil Case No. 18-cv-2460.

8 THE COURT: All right. Counsel late yesterday
9 received a motion from Mr. Hartlieb. I don't believe he's
10 here. I think you all know him or some of you know him.

11 MR. BLANCHFIELD: I don't see him in the
12 courtroom.

13 THE COURT: All right. So we will just put that
14 till the end. So let's begin with our motions that are
15 before us.

16 Who wants to proceed?

17 MR. AGUILAR: I can go first, Your Honor.

18 THE COURT: Thank you.

19 MR. AGUILAR: Would you like me at the podium,
20 Your Honor?

21 THE COURT: Oh, most definitely.

22 MR. AGUILAR: Thank you, Your Honor. George
23 Aguilar, again, with Robbins Arroyo on behalf of plaintiff
24 Tansey. We've made an application to be appointed lead
25 counsel in the matter.

1 Your Honor, we think the three most critical
2 factors in the court's discretion in appointing lead counsel
3 are to look at the experience and knowledge of the proposed
4 lead counsel and his firm, the record of success by that
5 firm and the resources that firm can bring to bear, and we
6 believe we compare favorably on all three points. Our firm
7 has been a derivative litigation focused firm for over ten
8 years. We bring a vast number of lawyers and experience --

9 THE COURT: You talk about the numbers of lawyers
10 that are in your firm, but I need to know who is going to be
11 running this.

12 MR. AGUILAR: Yes. I am going to be running this,
13 the litigation, as the lead litigation partner. Steve
14 Wedeking will be, an associate in the firm, and Ashley
15 Rifkin, also a partner at the firm, will also be assisting
16 in the litigation. And we will have other resources to bear
17 as they are required and especially with respect to the
18 discovery that may be propounded in the case.

19 THE COURT: All right.

20 MR. AGUILAR: Our record of success is focused on
21 the derivative litigation. As we lay out in our papers, the
22 success we have had in bringing necessary corporate reforms
23 where needed and to obtain financial recoveries on behalf of
24 the company and other shareholders are in the context of
25 derivative litigation.

1 We do have a diversity practice within our firm.
2 Myself, a former criminal prosecutor, also active in the
3 antitrust practice, but primarily in the derivative space.
4 We have other lawyers active in the 10(b) space, class
5 action space. Ms. Rifkin has been focused on the derivative
6 angle for a number of years and as has Mr. Wedeking.

7 And then, lastly, Your Honor, I can address the
8 Hartlieb thing when it gets brought up, but we have never
9 been denied a lead counsel as a result of any of these types
10 of allegations that have been brought forward. In fact,
11 they have been brought by Mr. Hartlieb once before.

12 THE COURT: Well, let's not talk about that right
13 now. He's not here and --

14 MR. AGUILAR: Very well.

15 THE COURT: But I do need you to talk to me about
16 your plaintiff.

17 MR. AGUILAR: Yes. Mr. Tansey has been a
18 stockholder of the company since 2003. He is a minor
19 stockholder who owns 13 shares, but, nonetheless, a
20 long-term holder, selling as the market would require, and
21 he currently holds 13 shares of the corporation.

22 THE COURT: All right. Anything else you wish to
23 bring forth at this time?

24 MR. AGUILAR: Unless the court has some questions.

25 THE COURT: Not at this time. We will hear from

1 everyone and then we will go -- I may have another round.

2 Who is next?

3 Let me -- no. Come on back up.

4 MR. AGUILAR: Sure.

5 THE COURT: I need -- as you well know, I have
6 handled a number of MDLs, and one of the things that is very
7 important for me is coordination and cooperation, and you
8 didn't talk about that with the other firms that are
9 involved in this. So I need to know, Did you meet and
10 confer? What is your --

11 MR. AGUILAR: We did.

12 THE COURT: Have you had problems with -- in one
13 of the MDLs I had many, many years ago I didn't find out
14 that there were lawsuits between the lawyers in another MDL.
15 Everyone was quiet about it, because they wanted to get it
16 appointed. And then once they got it, I'd made my
17 appointment, then I found out that there was lawsuits
18 between two of the lawyers and that caused a lot of
19 problems, so --

20 MR. AGUILAR: No. We certainly don't have any of
21 those issues with any of the other firms.

22 We did have discussions with a member of the firm
23 that makes up the Bragar firm. There were discussions in
24 earnest to try to resolve a leadership or put together a
25 leadership structure. It was our view that what was being

1 proposed, that we were being asked to be a part of, was just
2 too large, too diffuse. It didn't really have a focus or a
3 sharpness that would allow the litigation to proceed
4 efficiently. I have had recent discussions with
5 Mr. Federman and again along the same lines.

6 I believe for a case like this in an MDL
7 proceeding, which is already going to be fairly coordinated
8 and consolidated and managed by the court, we just thought
9 it was important that the top of the leadership structure be
10 as efficient and focused as possible. So that's why we
11 proposed just a one-firm leadership structure at the top.

12 We do have experienced Minnesota counsel in
13 Reinhardt Wendorf in the representative litigation aspect.
14 But if we are appointed lead counsel, obviously, the first
15 thing we would do would be to consolidate the cases, put
16 together a consolidated complaint. We would encourage and
17 ask the other plaintiffs to join in the case, and they
18 would, the other firms, would have an opportunity to
19 participate in the litigation, if their client decides to
20 partake in the case. It would be -- you know, we are
21 dealing and up against very experienced and excellent
22 defense counsel, so there will be a need for significant
23 resources in this case, and we will be more than happy to
24 bring the other firms along. We just thought at the very
25 top and there should be a very sparse and focused structure

1 at the top, and that's what we propose.

2 THE COURT: Well, other than having a king at the
3 top or a queen at the top, what's your management structure?
4 What are you proposing?

5 MR. AGUILAR: No formal committee structure. It
6 would involve, again, based on the participation of the
7 plaintiffs, other plaintiffs in this case, a doling out of
8 work as it becomes available in the case, probably initially
9 not at the pleading stage. That will be work that will be
10 handled by our firm and the Reinhardt firm. But once we get
11 to discovery, if we are able to do that, there will be a
12 significant amount of work to be done in that arena, and we
13 would propose to have other counsel involved in that case,
14 to the extent that they are willing to or have the resources
15 at the time to do so. We just believe that the management
16 of the practice -- the management of the case should
17 generate and originate from the focused leadership.

18 THE COURT: What's your position dealing with the
19 other MDL that's involved here, the consumer side?

20 MR. AGUILAR: We would certainly -- those cases
21 are progressing. We would reach and make contact with lead
22 counsel on the plaintiffs' side for those actions. We would
23 be particularly interested in the 10(b) action that's
24 proceeding, the securities part of the MDL. There may be
25 some issues in common with this case that we'll certainly

1 work with the defense counsel and perhaps establishing an
2 efficient way to resolve those types of issues in
3 conjunction with what's already occurred in the securities
4 case and what's being proposed to occur in the securities
5 case.

6 THE COURT: Now, you've indicated that you have
7 been involved in a number -- that your firm is a derivative
8 lawsuit firm. Have you had other cases that you can cite to
9 me that you have dealt with the consumer side and it's
10 worked well and --

11 MR. AGUILAR: Yeah, not so much on the derivative
12 MDL side. I am currently part of an antitrust MDL as lead
13 counsel in one of the cases, antitrust cases that does have
14 a significant component with consumer -- with the consumer
15 cases, and we have been in very open and constant contact
16 with those lawyers. It's the Interchange MDL case and the
17 Credit Card antitrust action in the Eastern District of New
18 York.

19 We're currently serving as associate counsel in a
20 consumer class action involving pharmacies and their
21 payments of certain usual and customary prices with respect
22 to the pharmacy benefit managers, and we have been working
23 in close contact with the consumer lawyers in that
24 particular instance.

25 So I don't anticipate any issues at all with

1 respect to our ability to cooperate and coordination with
2 any of those cases, with any of the cases that are currently
3 making up the MDL, and that would involve certainly
4 discovery, where we do think there probably will be a
5 significant amount of overlap in terms of the documents and
6 the discovery that's produced and would proceed and want to
7 do it in the most efficient way possible.

8 THE COURT: All right. Thank you.

9 You have given me a list of cases where you were
10 either lead counsel or co-lead counsel, but you never
11 mentioned who the judges were.

12 No? None?

13 (Off-record discussion between court and clerk.)

14 THE COURT: You gave me the name of the cases, but
15 you didn't give me the name of the judges, which is --

16 MR. AGUILAR: Sure. In our pleading, Your Honor,
17 in our briefing, we did list -- I think it's a page and a
18 half and attached the transcripts of the judges who have
19 commented on our work, and that would include, for example,
20 District Court Judge Kinkeade in the Northern District of
21 Texas. And we certainly can match those judges up with the
22 cases we mentioned in the early part of the brief. So we do
23 have a listing of the judges who have proposed and stated on
24 the record complimentary things of the way we litigated the
25 case and the results that we have achieved. And I certainly

1 have no --

2 THE COURT: I am sure that's at the end of the
3 case when you, when it's --

4 MR. AGUILAR: Right, right.

5 THE COURT: I'm just teasing you.

6 MR. AGUILAR: Yeah. No, no, that's -- that's --

7 THE COURT: I have done that many times.

8 MR. AGUILAR: Right.

9 THE COURT: So, no, I've just -- time flies. I
10 have been -- soon I will be -- this is my 25th year as a
11 federal judge, and so I know a number of the judges and
12 especially on the MDL side. So I just wanted to make sure
13 that I got all the names; and so if I wanted to make a quick
14 call, I could do that.

15 MR. AGUILAR: Certainly, Your Honor.

16 And to the extent that the cases that we cite in
17 our brief and in our resume aren't reflected in the comments
18 made by the judges that are within our brief, I certainly
19 can provide a correspondence to your court listing those
20 judges.

21 THE COURT: Please. Make it easy for me.

22 MR. AGUILAR: I will do so.

23 THE COURT: I am senior status now.

24 MR. AGUILAR: I will do that.

25 THE COURT: I am just teasing you.

1 MR. AGUILAR: All right.

2 THE COURT: All right. Anything else you --

3 MR. AGUILAR: Not unless the court has additional
4 questions. Thank you.

5 THE COURT: All right. We may have a second
6 round, so --

7 All right. Who is next? Good morning.

8 MR. EAGEL: Good morning, Your Honor.

9 I've prepared a little graph I thought would maybe
10 be helpful to the court. Can I approach and just hand --

11 THE COURT: Please. Have you given it to all
12 counsel? I need one for my law clerk too. Okay. Good.

13 MR. EAGEL: Good morning, Your Honor.

14 THE COURT: Good morning.

15 MR. EAGEL: May it please the court. Lawrence
16 Eagel, Bragar Eagel & Squire. We are here this morning
17 seeking the appointment of our client Tim Ault as lead
18 plaintiff and our firm as lead counsel.

19 First, with respect to the appointment of our
20 client as lead plaintiff, Tim Ault has been a long-time
21 shareholder of CenturyLink. He's owned shares since 1999.
22 We have disclosed he has 235 shares. He's submitted an
23 affidavit saying that he's committed to prosecuting the
24 action and supervising counsel or at least being a part of
25 the process. So I think he's -- he is probably the most

1 qualified plaintiff of all of the plaintiffs, and I will
2 describe why in a few minutes.

3 THE COURT: What's his background? Why would he
4 want to take on that?

5 MR. EAGEL: I believe he's an -- he's an
6 investment advisor, I mean, a skilled investor. I'm not
7 sure he's an investment advisor. And I don't have more
8 information for you. I wish I did, but I don't have more
9 information. I have -- others in my office have been more
10 in touch with him. And I apologize that I don't have more
11 information, but what I understand is he's an experienced
12 investor and I understand he's interested in the case and
13 willing to participate in the case and wants to participate
14 in the case.

15 So let me speak a little bit about the reasons why
16 our firm should be appointed lead counsel in this case.

17 Well, first, I would say, in terms of the lead
18 plaintiff as compared to Mr. Tansey, he has not submitted a
19 declaration saying that he will support his lead plaintiff
20 position. And as we point out with respect to IMG, which
21 is -- and there are a few reasons why we believe
22 Inter-Marketing Group is not a proper plaintiff, one of
23 which is that they're a corporation and as a result of being
24 a corporation I don't think they're a traditional, but they
25 refer to themselves as an institutional investor, but I

1 think in reality they're a corporate investor, and as a
2 corporate investor they have their own fiduciary obligations
3 to their shareholders, and, therefore, a possibility is they
4 will be required -- they might sell their shares; and if
5 they do sell their shares, they are, in fact, will lose
6 standing. I think that's something the court sort of is
7 familiar with. So I think that was one reason, and I will
8 speak in a few minutes about the additional reasons and that
9 is the vigor with which we've pursued the case.

10 I think with this what's important, I think, Your
11 Honor, is in terms of the standing of or how the cases have
12 been prosecuted, our firm has been proactive and --

13 THE COURT: Let's back up.

14 MR. EAGEL: Okay.

15 THE COURT: My first question, Who is going to
16 lead the charge here from your firm?

17 MR. EAGEL: I will, Your Honor. I will be the
18 lead. I will be the lead attorney from -- and we can talk a
19 little bit about the resources of our firm, but I will be
20 the lead attorney from our firm handling litigation. With
21 me will be -- and I have been practicing litigation for
22 35 years, law for 35 years, I guess litigation probably most
23 of that time. A few years before that I was a certified
24 public accountant. I have spent the last 10, 15 years
25 focused more on derivative-type litigation representing

1 shareholders in various types of derivative litigation.

2 We've -- and so that's been my experience.

3 I was involved in several of the cases that we
4 have identified for Your Honor. The *Activision Blizzard*
5 case was a case I was intimately involved with. It was our
6 client. We worked with other counsel and ultimately
7 succeeded in achieving a \$275 million recovery on behalf of
8 the company, in fact, got a fee award of \$72 million showing
9 that the court recognized the effort of counsel and the
10 unique effort of counsel. In another case -- I was also
11 involved in the *El Paso* trial case, a case tried before --
12 and in terms of the judges that were involved, the judges
13 that were involved in the *Activision Blizzard* case is a vice
14 chancellor -- Vice Chancellor Laster, Travis Laster from
15 Delaware. He's in the Court of Chancery in Delaware. Vice
16 Chancellor Laster also was the judge in the trial in the *El*
17 *Paso* litigation. The *El Paso* litigation was a derivative
18 case we tried through verdict and secured a verdict of -- in
19 that case a liability award of \$171 million following a
20 finding of bad faith on behalf of the directors. In fact,
21 subsequent, sort of, at the close of the trial, the trial
22 court -- the company merged, *El Paso* merged with the
23 subsidiary, and ultimately our client lost standing. There
24 were posttrial proceedings involving our standing, and
25 ultimately the case on appeal.

1 THE COURT: Dismissed.

2 MR. EAGEL: Excuse me?

3 THE COURT: It was dismissed.

4 MR. EAGEL: Yes, on appeal. And that was as a
5 result of the loss of standing, having nothing to do with
6 the trial. And even in the Delaware Supreme Court decision
7 reversing the judgment that the vice chancellor had
8 instituted in the case, the Supreme Court said in this
9 difficult and troubling case we have to reverse because of
10 the loss of standing. But I think that's -- it's a lesson
11 we have learned in terms of what could happen if you don't
12 have control over the shares that you hold, because the same
13 result could happen if ultimately you sell the shares or the
14 shares are otherwise -- you are not in control of that,
15 whatever, for Inter-Marketing.

16 Another more recent case, Your Honor, is before,
17 also a derivative case, before Vice Chancellor Slights in
18 the Delaware Chancery Court in which we have -- we're
19 representing a shareholder in a suit on behalf of Enbridge
20 Energy Company. The suit was ultimately -- recently
21 Enbridge announced a merger, a roll-up of its subsidiary. I
22 have unique expertise in master limited partnership
23 litigation. And as a result of the roll-up, as a result of
24 the transaction, there were merger negotiations between
25 Enbridge Energy, Inc., Enbridge, Inc., and the master

1 limited partnership. We interjected ourselves into those
2 negotiations seeking to have the committee that was
3 appointed value the derivative claim. The committee that
4 was appointed valued the derivative claim at close to a
5 hundred million dollars, used that value in its negotiations
6 with Enbridge, Inc., and ultimately there was an increase in
7 the -- in the exchange ratio from about 3083 to about 3.33.
8 Ultimately, that case, as a result of the closing of the
9 merger, the case was dismissed to avoid a fee application by
10 our firms. We negotiated a fee of 14 and a half million
11 dollars with the defendants on the case.

12 So we have achieved, I think, success. We have
13 achieved success recently, and we've achieved success in
14 derivative cases.

15 In terms of -- I know I can -- I can continue. I
16 kind of -- in terms of the consumer cases, I know Your Honor
17 mentioned consumer cases. These cases have not
18 traditionally been consumer cases that I have just referred
19 to. We have been in consumer cases, but not within a
20 derivative context that I can recall. The derivative cases
21 ordinarily involved, sort of, the conduct of the board of
22 directors and their, sort of, obligations to monitor the
23 activities. I also --

24 THE COURT: The only reason I mention it is
25 because I have -- I have these two MDLs.

1 MR. EAGEL: Yeah, understood.

2 THE COURT: And the --

3 MR. EAGEL: Understood.

4 THE COURT: -- same issues. And so I want to see
5 if you've had that type of experience.

6 MR. EAGEL: Well, our firm actually did represent
7 a class of -- this is actually a class of purchasers of
8 Camel Cash cigarettes. We ultimately entered into a
9 resolution, but this involved what were called C-Notes for
10 Camel Cash cigarettes. For years in California and
11 throughout the country there was -- there were these C-Notes
12 that were much like -- I don't know if you remember Plaid
13 Stamps back in the day. The C-Notes they would -- people
14 would buy packs of cigarettes, get C-Notes, be encouraged to
15 collect the C-Notes. Ultimately, R.J. Reynolds terminated
16 the program without notice, and we --

17 THE COURT: Do you really want to talk about that
18 and your attorney fees that were cut?

19 MR. EAGEL: No. I really just wanted to tell
20 you that -- I'm sorry. I wanted to just tell you that it
21 was one of the cases we had. It was a consumer case, and
22 the attorneys fees is -- it's more, sort of, just that we've
23 had some consumer experience. That's all. Yes, we have
24 succeeded in obtaining attorneys fees, but that really was
25 more so -- I was trying to really just touch on the consumer

1 experience.

2 I think in terms of Your Honor's questions
3 regarding our ability to interact with other counsel and as
4 well as counsel for the defendants and counsel in the other
5 cases, I think that we have had experience in all of those
6 areas.

7 I think, first, with respect to counsel in the
8 other securities cases, we have worked with counsel and
9 throughout the country in a number of different securities
10 cases. I do think there would be some overlap through
11 discovery. There might be depositions, since some of the
12 issues are related as it relates to the disclosure claims,
13 that while they touch on similar issues that might require
14 coordinated discovery, coordinated deposition, coordinated
15 document discovery.

16 I think in terms of -- excuse me -- in terms of
17 coordination -- and I guess I spoke a little bit about
18 myself. I didn't get to tell you anybody else who is going
19 to be on the case. I would be on the case, leading the
20 case. In addition, our firm would have David Stone. He's
21 been with us for about, I would say, close to eight or
22 nine years, and he would -- he's practicing law for about
23 25 years. He will also be involved. Melissa Fortunato has
24 been with us. She submitted the affidavits. She will work
25 for about -- she's been out about six years. She will be on

1 the case. I think we have Todd Henderson, who is also a
2 more junior lawyer. He will be on the case. I expect that
3 one of the things we're prepared to do is to devote the
4 resources that's necessary to prosecute the case.

5 We've also, as Your Honor knows, been supported in
6 leadership in this case by both the Johnson Fistel firm and
7 the Weiser firm. Okay. We are not seeking lead on their
8 behalf, but we are supported by them. And they have in
9 fact -- and part of --

10 I know Your Honor asked about, well, any
11 leadership, how would we envision leadership amongst the
12 group of attorneys here. We were not able to come to an
13 agreement amongst the attorneys here as to how -- a
14 leadership structure. Often that involves who is going to
15 lead the charge, often involves economics, and certainly is
16 something I think that we concluded that we felt we could.
17 We had -- we had the right theory. We had the right client.
18 We felt we were committed to pursuing the case. We were
19 supported by Johnson Fistel and have nothing negative to say
20 about the other attorneys here, frankly. It is not that the
21 attorneys here are bad attorneys. It's just we had to
22 just -- we think these cases are effectively managed when
23 run by lead counsel who is sort of taking charge, running
24 the show, and not necessarily splitting authority amongst
25 ten or, you know, five or six different firms. It just

1 happens. And that was what we were planning. We did feel
2 like we had support from the Johnson Fistel firm and the
3 other firm as well.

4 And I think that's really why we are here. We
5 just didn't reach an agreement. I know other counsel will
6 say they all reached out to try to come to some agreement.
7 I think we were prepared to try to come to some agreement,
8 but I think economics as well as just the desire to lead the
9 case and desire to be the one making the decisions was part
10 of what led us to where we are.

11 THE COURT: Okay.

12 MR. EAGEL: I think in terms of --

13 (Mr. Hartlieb entered the courtroom.)

14 THE COURT: Mr. Hartlieb?

15 MR. HARTLIEB: Here, Your Honor.

16 THE COURT: Welcome. We will get to you. I just
17 assumed that, that you were you. And so just have a seat.

18 MR. HARTLIEB: Thank you, Your Honor. Thank you.

19 THE COURT: And we will get to you in a little
20 bit.

21 I am sorry, counsel. Go ahead.

22 MR. EAGEL: So I did want to just talk a little
23 bit about why we think, in addition to Mr. Ault, our firm is
24 the proper, sort of, selection in this case. It's a
25 close -- it's a close question, and I am here trying to tell

1 you that I think we will do the best job. We will work hard
2 at it.

3 We filed -- as you can see from this little
4 schedule, one of the things it does say is we made a demand
5 in September 2017, the first demand made by anybody in the
6 case. We also have a long-time shareholder.

7 I think one of the things we have -- and I think
8 Your Honor may have asked a little bit about Mr. Tansey.
9 Again, he didn't submit an affidavit. And one of the things
10 that we did point out in our briefing was the fact that, in
11 fact, he filed --

12 THE COURT: District of Minnesota.

13 MR. EAGEL: Yeah, which is a district that doesn't
14 have personal jurisdiction over the defendant in this case
15 or, in fact, it's -- you know, you would have to ask -- ask
16 Tansey why they would file in the District of Minnesota,
17 other than we understand there was an MDL here, but you've
18 got to have jurisdiction, and I don't believe there's
19 jurisdiction under the *Bristol-Myers* case we cited and
20 discussed in our brief. We think that's an opportunity for
21 the defendants to raise another issue in support of their
22 motion to dismiss that shouldn't be before us.

23 We do expect much of the discovery to occur in
24 Louisiana. We have, you know, we will be --

25 THE COURT: It's warmer here.

1 MR. EAGEL: Well, I don't know about that. I have
2 a feeling defendants may say differently, but I think that's
3 where a lot of the discovery will be.

4 Let me talk a little bit about the Inter-Marketing
5 Group. I mentioned the fact that they had -- they were a
6 corporation and that they were -- that there's a risk of
7 selling the shares. And I think -- I think Your Honor knows
8 that the Inter-Marketing Group originally moved to be lead
9 as in connection with their bondholder case. They pursued
10 that, and this was sort of the backstop, sort of, let's go
11 the second route. And as you can see from the chart here,
12 they didn't actually file the demand until 2018. And so
13 that's over a year after we made the demand to the special
14 litigation committee. And they didn't file their complaint
15 until December 26, 2018.

16 So while I think they are all fine lawyers, I
17 think we've showed through the way we have prosecuted the
18 case that we have prosecuted properly, you know, and that we
19 have the resources to lead the case.

20 THE COURT: Appreciate it.

21 MR. EAGEL: Thank you, Your Honor.

22 THE COURT: Thank you.

23 Good morning.

24 MR. FEDERMAN: Good morning, Your Honor. William
25 B. Federman, Federman & Sherwood, on behalf of the IMG

1 Group.

2 If I may, Your Honor, I'll address any questions
3 you have; otherwise, I would like to respond, if I might, to
4 some of the comments by other counsel.

5 The Bragar Law Firm I am not familiar with,
6 although I was told they played a role in one or two of my
7 other shareholder derivative cases. By reputation, they
8 seem like a good firm. The only problem, if there is one,
9 with the Bragar firm is I couldn't get a phone call returned
10 or an email responded to. I had to call Mike Fistel, one of
11 their supporting lawyers, twice, Your Honor, to have someone
12 from their law firm return my call. I don't know why that
13 is, but that's not a good way to present yourself, as you
14 know, if you are going to be a lead counsel.

15 In the briefing filed by the Bragar firm,
16 Document 343 at page 15 of 17, they note that they did not
17 reach out to me or my firm to try to work anything out here.
18 I did repeatedly try to get them to the table to talk about
19 a structure here. I finally got a phone call. I made a
20 proposal. They were going to get back to me, which they did
21 not do.

22 Mr. Aguilar and I have known each other for a long
23 time. We have had plenty of cases together, which, frankly,
24 surprises me in their pleadings, Your Honor, on
25 Document 358, page 6 and 7, they say that they are not

1 familiar with the results of any of our cases, which is odd.
2 It may have been the same associate who filed in the wrong
3 jurisdiction.

4 I was co-counsel with the Robbins firm in *Cell*
5 *Therapeutics* in the Western District of Washington, Your
6 Honor.

7 I worked closely in the *Dynavax* case, Alameda
8 County, California, where they filed in federal court, I
9 filed in state court. We worked closely. I presented the
10 settlement. We had an objector. The settlement was
11 sustained. They asked me to make the presentation.

12 In the case of *Hemispherx*, Eastern District of
13 Pennsylvania, we were co-counsel.

14 In the *Spectrum* lawsuit, Clark County, Nevada,
15 they filed in state court, I filed in federal court. They
16 asked me, Your Honor, to make an appearance on behalf of
17 their client in state court to present the settlement for
18 approval to the court.

19 And then there's the *SandRidge Energy* case,
20 Western District of Oklahoma, that Mr. Aguilar is very
21 familiar with. I was part of the leadership structure of
22 that case before Judge Lee R. West, one of the finest
23 federal trial judges on the bench, now senior status.
24 Mr. Aguilar filed in state court where he was stayed after
25 initial activity. He then pursued nothing other than his

1 fee application before the Western District of Oklahoma,
2 where he lost and the judge poured him out. He then took it
3 up on appeal to get his fee. And I spoke to him. I asked
4 him if he wanted me to intercede on his behalf. He said no.
5 And he wound up losing, getting no fee in the case, even
6 though he did provide services in the case.

7 So to come to the court and now say we don't know
8 anything about the Federman firm just smacks of lack of
9 candor. I would look forward to working with these counsel.

10 T.J. McKenna. Your Honor, his firm was part of
11 the *Spectrum* group of law firms. He and I are co-counsel in
12 the case. It's a small bar when you get into this practice
13 area.

14 Now, if you say, well, Mr. Federman, what
15 distinguishes you and your firm from these other lawsuits, I
16 would say, first and foremost, I will be the first person
17 standing for the plaintiffs at trial and I will be the last
18 to sit for the plaintiffs at trial. I will be working with
19 other lawyers within my firm, particularly Sara Collier, who
20 George knows very, very well. She has done nothing but --

21 THE COURT: Please, no first names. Please. No
22 first names.

23 MR. FEDERMAN: Ms. Collier.

24 THE COURT: No first names.

25 MR. FEDERMAN: Oh, I am sorry. Mr. Aguilar.

1 THE COURT: Thanks.

2 MR. FEDERMAN: Excuse me.

3 Sara Collier from my firm has been practicing
4 shareholder derivative litigation exclusively for 13 years.
5 She's worked very, very closely with numerous attorneys at
6 the Robbins Arroyo Law Firm.

7 If you say, well, Mr. Federman, what concerns do
8 you have? Well, obviously, his client having 13 shares, and
9 I think I heard that right, is somewhat of a concern. And I
10 understand now why he sought for only lawyers to be
11 appointed and not a client, but that doesn't matter to me.
12 They're a good law firm. I would welcome them in part of a
13 structure. Having multiple partners billing to the case may
14 or may not be necessary. That's something that Mr. Aguilar
15 and I could discuss.

16 As far as the Bragar Law Firm goes --

17 THE COURT: Why don't you tell me, after I denied
18 a motion, it took you six months to file.

19 MR. FEDERMAN: Your Honor, there, frankly, was no
20 rush to file. They talk about the vigor in pursuing the
21 case, but in fact nothing has happened to this case other
22 than more facts have come out. A shareholder derivative
23 case is not like a class action. It's not the first to
24 file. Inter-Marketing Group, which they say did not pursue
25 with vigor, is in the exact same spot, except with a better

1 drafted complaint than the Bragar Law Firm, because we had
2 more facts on which to base the complaint. There was no
3 reason to file early other than to stand in front of the
4 court and say we filed first. I am sure if they file enough
5 derivative cases that they were filed third or fourth in
6 order. Robbins Arroyo has filed six, seven months after
7 other law firms in some of my cases, and I have welcomed
8 them into the structure. I spoke to Mr. Aguilar in the
9 hallway again, after having reached out to him earlier, and
10 said do you want to work something out here. And he said
11 no. So, you know, I will work with him.

12 Now, you asked about the differences. MDL
13 experience, Your Honor. I think in this group I am the only
14 one who has been lead counsel in multiple MDL consumer
15 cases. Judge Gwin in the Northern District of Ohio
16 appointed me over the *Sonic* data breach case as the sole
17 lead counsel with seven PSC members from around the country,
18 including New York counsel, Louisiana, South Carolina. It's
19 a good diverse group. And I'm lead in that case. The
20 *Samsung* washing case, Your Honor, is a massive case. We
21 have counsel from around the country on the PSC. Judge
22 DeGiusti in the Western District of Oklahoma. I am co-lead
23 counsel with a Lief Cabraser case.

24 I have reached out to the consumer part of this
25 case in the MDL because I think particularly the arbitration

1 issue is important to the derivative case, because if it's
2 forced into arbitration, we lose access to a great deal of
3 discovery. And I know Mr. Bragar discussed how they will
4 coordinate depositions and we could attend them, but if
5 there are no depositions, it becomes a bigger issue. So we
6 have reached out to those attorneys. We have reached out to
7 the class action counsel. I know Max Berger very well.

8 But, Your Honor, where it comes down is I'll work
9 with these other firms. We will efficiently handle this
10 case. If you say, well, what's the advantage of being in
11 the central part of the United States? Cost of doing
12 business, Your Honor. Our billing rates are very
13 competitive. I have got a specialist in Ms. Sara Collier,
14 who they have worked with. T.J. -- excuse me. Mr. McKenna
15 speaks with her periodically. We're co-counsel on a case
16 now. I think all these firms have had good results in
17 cases. I am not going to say otherwise.

18 Mr. Bragar's law firm has a client who literally
19 has less than a one percent investment position compared to
20 IMG in this case. There is no commitment by any other
21 plaintiff to hold stock throughout this proceeding. As
22 Mr. Bragar discussed with you, his client could lose
23 standing at any time. A 13 shareholder? A 13-share
24 shareholder could sell at any time. Mr. Bragar's client
25 with less than 300 shares could decide to sell at any time.

1 IMG, who he criticizes for some perceived lack of standing,
2 where all he had to do was call me, just give me a call, I'm
3 available, and say, Bill, is there a -- or, Mr. Federman, is
4 there an investment policy for IMG that will cause this
5 company to sell? And I would have said no, there is none.
6 Instead, he makes a fanciful argument, which has no basis.
7 And as the court knows, for a trial attorney, candor,
8 accuracy and evidentiary value matters.

9 So here we stand, Your Honor, in front of you
10 ready to serve in a capacity of either lead counsel with a
11 three-member executive committee or I will be co-counsel and
12 gladly do that.

13 As far as resources, we have dropped from 18
14 attorneys at the Robbins Arroyo firm to some number of
15 multiple partners and an associate.

16 Your Honor, we just resolved the case in front of
17 Judge Consuelo Marshall in the Central District of
18 California, a very fine judge. It took five years to do it.
19 We had a trip to Pasadena to the Ninth Circuit. Sullivan &
20 Cromwell was on defense. And the case was resolved
21 favorably for the plaintiffs, a \$13 million recovery. Fees
22 were awarded at 28 percent, which is above the benchmark of
23 the Ninth Circuit, as you may be aware. We had an
24 institutional client there, who was a corporation. Every
25 institutional client, Your Honor, is either a trust or a

1 corporation. That's why they're an institutional client.
2 So if you would like to call a judge that knows my firm and
3 the quality of work we do, Judge Marshall would be a perfect
4 one. She approved the settlement last week.

5 That also frees up both resources, i.e., cash, as
6 well as attorney time. We are committed to this case.
7 Ms. Collier will be on this case nearly exclusively. This
8 is a big case. There are a lot of moving parts in it with
9 the investigation by the AG. It's a large board.

10 I would welcome the assistance of these other law
11 firms, if they want to continue to participate. I look
12 forward to working with the Bragar firm. I have no issue
13 other than admiration for Mr. McKenna, who has been my
14 co-counsel. He returns calls. He responds. He does his
15 work on time. It doesn't take that much to work
16 cooperatively. And we have shown we do that in other cases
17 in MDLs, and that's why we have been selected. I am not a
18 jack of all trades. We restrict our practice to certain
19 areas, and those areas are shareholder derivative cases,
20 securities class actions and consumer cases.

21 I have over the years practiced in other areas.
22 I'm right now co-counsel in a police shooting case out of
23 Bixby, Oklahoma, where a police officer lit up a 16-year-old
24 boy and killed him with eight shots, and I am assisting a
25 lawyer who came to me for financial backing and assistance

1 in complexity of his case. I am glad to help other
2 attorneys. And that's how I'd approach this case, Your
3 Honor.

4 THE COURT: Thank you.

5 MR. FEDERMAN: Do you have any questions?

6 THE COURT: Thank you.

7 MR. FEDERMAN: Thank you very much.

8 MR. MCKENNA: Good morning, Your Honor.

9 THE COURT: Good morning.

10 MR. MCKENNA: Thomas J. McKenna. I represent
11 three individuals who are stockholders of the company.
12 Thank you for having us here today.

13 These lead plaintiff contests always make me
14 nervous too because arguments are made that could only help
15 the defense.

16 I reached out to all the firms here -- I am
17 familiar with all the firms; I have worked with all the
18 firms -- to see if we could make a structure. We were not
19 successful. It doesn't mean it couldn't happen.

20 I have worked with Mr. Federman, as he's told you,
21 many times. And when I saw his papers that he represented
22 an institution, a corporation that holds 2,600 shares, that
23 the man has submitted a sworn statement that he will not
24 sell, because standing is a problem -- I have a case in
25 Chicago where my client promised me they were never going to

1 sell and had no intention of selling, then they sold. I had
2 to drop him out of the case. So I'm aware of those
3 problems, as well as probably happened to everyone. So that
4 impressed me, a sworn statement of a corporation they're
5 going to hold the shares. So I agreed to pull back and
6 support Mr. Federman in whatever way he needs.

7 My local counsel, Mr. Perry, has worked with me on
8 a number of cases in this district. We have been before
9 Judge Schiltz a few times. We have been before Judge
10 Ericksen. We have been before Judge Tunheim and Judge Doty.
11 He also is prepared to be liaison counsel, if Your Honor
12 thinks that's appropriate, and he will serve under
13 Mr. Federman as well.

14 So I would just say one other thing too, you know,
15 not -- no one has all the answers, and often the best
16 answers come from collaboration. I had a law professor who
17 gave us a take-home test. The class was divided in two.
18 The other kids took their test with their professor in
19 class. We got the take-home. They were up in arms. They
20 thought it was easy. It was the hardest test I ever took.
21 And we sat in my living room, like six of us, and we came up
22 with, you know, decent answers, but by ourselves we had no
23 chance on that test because it was just too deep. There
24 were too many levels. And I learned from my professor that
25 the best -- the best answers come from collaboration, and I

1 would like to see that happen here, judge.

2 THE COURT: All right. Thank you.

3 Anyone else?

4 MR. EAGEL: Your Honor, just one thing. I just
5 wanted to say, one, I'm Mr. Eagel. I know that --

6 THE COURT: I can't hear you. Come to the podium.

7 MR. EAGEL: Just, one, I really did just want to
8 say, one, I'm Mr. Eagel as opposed to Mr. Bragar. I think I
9 was referred to as Mr. Bragar a few times. I didn't want
10 there to be any misunderstanding from Mr. Federman.

11 And, two, I did want to make sure that the court
12 was aware it's not that we've never worked with anybody or
13 unwilling to work with other people. We couldn't reach an
14 agreement based on the parameters that were being discussed
15 at the time. We have worked with counsel many times. I
16 have -- don't have bad words to say about the people that
17 are here. They have all been good lawyers, and they have
18 spoken well. It's we have -- in terms of communications,
19 there were communications that were being made by other
20 attorneys to Mr. Federman. There were communications -- if
21 there was a breakdown, it could have been because of some
22 desire as to who was -- discussions with Robbins Arroyo. I
23 mean, the discussions that occurred, we just couldn't reach
24 an agreement, but there's no desire not to reach an
25 agreement or not to work with people. We have worked

1 consistently with other firms and would continue to do so.
2 I just wanted to make sure that was clear, Your Honor.

3 Thank you.

4 THE COURT: Thank you.

5 MR. AGUILAR: One last thing, Your Honor. I am
6 sorry. I just wanted to -- my co-counsel --

7 THE COURT: Well, you have to respond to -- I
8 think someone said some associate misfiled the case in
9 Minnesota.

10 MR. AGUILAR: That wasn't us.

11 THE COURT: Okay.

12 MR. AGUILAR: No, we did not misfile. We did file
13 in Minnesota. It wasn't misfiled.

14 THE COURT: Well, and you didn't -- maybe I didn't
15 say it right. Counsel said that -- he was taking a dig at
16 your firm.

17 MR. AGUILAR: Yeah.

18 THE COURT: It's that you don't know what you are
19 doing.

20 MR. AGUILAR: Right.

21 THE COURT: And that you had an associate file it
22 in Minnesota.

23 MR. AGUILAR: That's not the case.

24 THE COURT: And so you are going to have to
25 respond to that.

1 MR. AGUILAR: Sure.

2 At the moment there is no finding with respect to
3 jurisdiction on any of the cases, personal, general,
4 specific. So that's not to say we couldn't establish
5 jurisdiction with the currently pending complaint. However,
6 in the end in an MDL we are going to consolidate the cases
7 and have plaintiffs who had filed in Louisiana, filed in
8 Minnesota, and so it becomes a moot case, because if you
9 don't have jurisdiction as alleged by one of the plaintiffs,
10 there's another plaintiff who had alleged previously
11 Louisiana jurisdiction and that might arise and provide the
12 jurisdiction in this case. So in an MDL that's not as
13 critical as you would -- as it would be in a stand-alone
14 litigation.

15 So I don't believe we've misfiled. I approved the
16 filing. It was here in Minnesota. It's entirely possible
17 we can establish Minnesota jurisdiction here, but it's also
18 possible in an MDL we would be able to establish
19 jurisdiction through the filing of the Louisiana cases. So
20 I think it's a lot less important in this context than it
21 may be otherwise.

22 And then, secondly, I just wanted to point out, as
23 my local counsel reminded me, we were involved as co-lead
24 counsel in the derivative case against Target in the data
25 breach cases. That had an MDL, that was an MDL, and had a

1 consumer case component, and Judge Magnuson presided. So if
2 you wanted to talk to him, that would be perfectly
3 appropriate.

4 And that's all I have.

5 THE COURT: Anyone else?

6 MR. MCKENNA: No, judge.

7 THE COURT: All right. Let's move on to the other
8 case, let's recall it, that was just dealing with
9 Mr. Hartlieb. Let's call that again.

10 COURTROOM DEPUTY: Tansey versus Perry, et al.,
11 Case No. 18-cv-2460.

12 THE COURT: Mr. Hartlieb, come forward.

13 MR. HARTLIEB: Thank you. Thank you, Your Honor.

14 THE COURT: Good morning.

15 MR. HARTLIEB: Good morning.

16 I would just like to say that I apologize to the
17 court for being late. I was up bright and early and ready
18 to go, had breakfast, went to put a suit on, had no dress
19 shirt, ran to Nordstrom Rack, pounded on the door, got them
20 to open five minutes early, got the dress shirt. And let's
21 just say one wrong turn in the skyway and you are in serious
22 trouble, especially a California guy.

23 THE COURT: So you were in St. Paul? No. I
24 understand. Don't worry about that.

25 MR. HARTLIEB: Thank you, Your Honor.

1 Does Your Honor have any questions?

2 THE COURT: I travel quite a bit and --

3 MR. HARTLIEB: It was a rookie mistake.

4 THE COURT: No. It's amazing how many times I've
5 forgotten a tie.

6 MR. HARTLIEB: Thank you, Your Honor.

7 THE COURT: So I understand, yes.

8 MR. HARTLIEB: Does Your Honor have any questions
9 for me or -- okay.

10 THE COURT: No. Proceed with what you want.

11 MR. HARTLIEB: Okay. As Your Honor knows, in the
12 amicus brief I lay things out that shows a pattern, a course
13 of conduct over many years. I, as a shareholder, have had
14 to defend my interests against the likes of Robbins Arroyo
15 and more recently the Weiser Law Firm.

16 I am now in litigation with the Weiser Law Firm
17 because of the chicanery that transpired in the Kansas
18 court. That case went all the way up to the Kansas Supreme
19 Court. We had oral arguments at the Kansas Supreme Court.
20 They were admonished, although there is no transcript of
21 that hearing, which I am very dismayed over.

22 And, also, I think that the Robbins firm and I
23 believe, you know, Weiser as well, but especially the
24 Robbins firm, given the long history I have had having to
25 defend my interests against those cases that were

1 lawyer-driven, plaintiffs that had no shares, no standing
2 whatsoever, representing -- I had 8, \$900,000 in losses in
3 Sirius. So the way I have gotten involved in this is I see
4 someone that falsely purports to represent the shareholders'
5 interests or the corporation, the shareholders derivatively,
6 and then I see no meaningful relief or nearly illusory
7 relief and a tremendous amount in attorneys fees. And in
8 the Kansas case, I mean, I was subjected, I was -- my
9 character -- I mean, I ended up having to defend my
10 character, and I wasn't the one that did anything wrong.
11 You know, I mean, it's unbelievable the attacks that I took,
12 so -- but it does nothing to dissuade me. It just
13 galvanizes my convictions and strengthens my resolve.

14 I have been on a quest to expose this
15 lawyer-driven litigation and the strong-arm tactics of firms
16 like Robbins Arroyo. And I'll tell you, I think the reason
17 that they get away with it is because of who, you know, the
18 Robbins Geller firm is. I mean, they are a very prominent
19 firm. And I know many, many attorneys that are very unhappy
20 with what goes on at Robbins Arroyo, but they are afraid to
21 cross them. So I am the one that's out here. You know, I
22 am speaking my mind, because I have been a victim of them so
23 many times, and I intend to continue.

24 And with regard to the amicus brief, I didn't have
25 a full service, the notice, you know, who to serve everyone.

1 And I understand that it could be prejudicial because they
2 haven't had a chance to respond, but I welcome a response.
3 That said, if the firms would like to give me a list of
4 their forthcoming cases in which they are seeking leave, I
5 could be certain to notify everybody timely and I wouldn't
6 have to prepare, stay up all night, all weekend long, to try
7 to draft an amicus brief and get it to the court and then,
8 you know, fly in.

9 THE COURT: Okay. Anything else you wish to tell
10 me?

11 MR. HARTLIEB: I mean, basically, that's it in a
12 nutshell, Your Honor. I think that it's time that, you
13 know, the corruption that's rife throughout derivative
14 litigation needs to be cleaned up.

15 The other issue that I tread lightly on, but I
16 just don't understand why an esteemed federal court judge,
17 after fraud was committed in the case, he submitted a sworn
18 declaration affirming those fees. I don't understand how it
19 is that a mediator who is supposed to be, you know,
20 nonbiased -- I don't think it's proper for a mediator to
21 affirm fees, you know, whether just or unjust, in my
22 opinion, because it creates at least the illusion of a
23 conflict of interest.

24 And then it's -- I'm dismayed by the fact that
25 during the course of the Kansas case that, you know, Judge

1 Phillips did not send a declaration retracting his support
2 for the fees because they were found to be completely
3 fraudulent, 1.6 million of which by a convicted felon and
4 disbarred attorney. And, Your Honor, I know for a fact that
5 the Weiser firm knew who Mr. Silow was and that will come
6 out, you know, during the course of litigation. And I am
7 pretty certain that the Robbins Arroyo firm knew who he was
8 as well.

9 These firms, when these firms are up to no good,
10 when they are billing illusory hours -- you know, if I had
11 30 minutes with Your Honor in chambers, I could give Your
12 Honor a lot more information with regard to Cardinal Health,
13 an attorney by the name of Colton, things that have happened
14 at the Robbins Arroyo firm that are extremely troubling,
15 extremely troubling.

16 So I ask Your Honor to consider like the Kansas
17 court did. I understand I am pro se. I understand I don't
18 have a legal background. But the Kansas court took my
19 allegations, you know, sincerely and gave me the opportunity
20 to prove what I alleged early on, that there was fraud being
21 committed in that case.

22 THE COURT: Okay.

23 MR. HARTLIEB: Thank you, Your Honor.

24 THE COURT: Thank you.

25 MR. HARTLIEB: Thank you.

1 THE COURT: Counsel, do you wish to be heard?

2 MR. AGUILAR: Yes, Your Honor.

3 Unfortunately, this is what Mr. Hartlieb does. He
4 has done this before. He filed the last-second pleading in
5 a case before the Delaware Chancery for which I had and my
6 firm had placed an application for lead counsel, again, last
7 second, last minute, all sorts of parade of horrors that
8 our firm supposedly committed. And at the time Chancellor
9 Strine, before his elevation to the Supreme Court, saw the
10 matter, heard the matter, he dismissed it and didn't take
11 into account any of the -- any of the allegations, any of
12 the pleadings. They were as fanciful as they are in this
13 instance, delusory in many instances and certainly
14 libelous and slanderous. And he went ahead and appointed us
15 and me as lead counsel. We obtained a \$68 million default
16 judgment in the case. We didn't apply for attorney fees and
17 won't until we are actually able to collect on the judgment.
18 But Mr. Hartlieb has no answer for the hundreds of cases
19 where we've successfully settled, where we have had
20 complimentary reviews by the judges involved.

21 The process by which these cases get resolved is
22 closely monitored by the court. There's a reason for that.
23 And in this particular instance, and specifically I am
24 talking about the *Sprint* instance, there was a settlement in
25 the case that the court approved as reasonable, fair and

1 adequate to the company and its shareholders and to the
2 plaintiffs. The settlement was approved. The court had a
3 problem with the fee application, even though the fee
4 application was negotiated with the direct intervention of
5 the mediator, Judge Phillips, and we had declarations from
6 corporate governance experts who also vouched for the value
7 of the reforms involved. Now, again, and it's perfectly
8 appropriate, the judge in Kansas determined, you know, that
9 wasn't good enough, and he has asserted his discretion and
10 judgment and determined that there shouldn't be an
11 application for the fees at anywhere near the amount that we
12 applied for. We appealed that, lost that. We didn't --
13 there was no argument in front of the Kansas Supreme Court.
14 So, you know, the system worked. The process worked. The
15 court reviewed it. Everyone presented their arguments, and
16 the court ruled.

17 In the instance of the disbarred lawyer,
18 unfortunately, the Weiser firm had retained and vetted
19 somebody who purported to be an attorney, was a prominent
20 doc reviewer in the case, and all he did was review
21 documents. We didn't vet him. We didn't employ him. He
22 wasn't part of our sphere of lawyers working on the case.
23 And, unfortunately, it turned out he had misrepresented his
24 status. He was criminally prosecuted. He was -- and had
25 served a sentence for defrauding the court and defrauding

1 the public as a purported attorney. So, again, the process
2 worked.

3 And there's no, again, there's -- aside from the
4 matters that he brought before you in the pleading that he
5 lodged this morning, in which we received, again, late last
6 night by email, that doesn't account for the hundreds of
7 cases we have resolved successfully and had approved by the
8 court, through the court's own vigorous and careful scrutiny
9 over what had occurred in the case. And that's a record
10 that we stand on and is appropriately before Your Honor in
11 our application for lead counsel.

12 THE COURT: All right. I'll give you a week to
13 respond in writing. It will be the 13th of March.

14 MR. AGUILAR: Thank you.

15 THE COURT: By 12 noon.

16 All right. Anyone else wish to be heard on this
17 issue?

18 Mr. Hartlieb, do you want to have the last word
19 here?

20 MR. HARTLIEB: Thank you, Your Honor.

21 You know, I may be a lot of things. Delusional is
22 not one of them. That being said, the court should also
23 take into consideration that Mr. Aguilar would like to blame
24 the Weiser firm for what transpired, but the Robbins Arroyo
25 firm was the one -- all the fraud was committed in

1 fraudulent document review. Basically, the entire
2 \$4.5 million was for document review that was illusory. All
3 of this was under Robbins Arroyo's supervision. They were
4 running the case behind the scenes. They negotiated the
5 case management, you know, agreement, and they were
6 controlling all of the document review.

7 The other thing is, I ask the court to consider
8 this. The allegations that I make against these firms are
9 very serious allegations. He says that I am libeling him,
10 slandering him and defaming the firm. I have asked
11 Mr. Aguilar on numerous occasions if they would like to sue
12 me, I will waive service.

13 I am perfectly happy for you -- if you want to
14 commence an action, then I will get the discovery --

15 THE COURT: Speak to me.

16 MR. HARTLIEB: Then I will get the discovery that
17 I need to finally put an end to this, all of this, you know,
18 unjust enrichment, you know, literally bastardizing our
19 judicial process.

20 THE COURT: Okay.

21 MR. HARTLIEB: Thank you.

22 THE COURT: Thank you.

23 All right. Anyone else wish to speak on any
24 issues? If not, I will take this matter under advisement.

25 MR. AGUILAR: Thank you, Your Honor.

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MR. FEDERMAN: Thank you, Your Honor.

THE COURT: Thank you.

COURTROOM DEPUTY: All rise.

(Court adjourned at 10:42 a.m., 03-06-2019.)

* * *

I, Renee A. Rogge, certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter.

Certified by: /s/Renee A. Rogge
Renee A. Rogge, RMR-CRR