

U.S. District Court
Southern District Of Texas (Houston)
CIVIL DOCKET FOR CASE #: 4:00-cv-00359

Klein, et al v. BMC Software Inc, et al

Assigned to: Judge Melinda Harmon

Demand: \$0

Case in other court: 4:00-cv-00403

4:00-cv-00516

4:00-cv-00526

4:00-cv-00529

4:00-cv-00859

4:99-cv-00715

Cause: 15:78m(a) Securities Exchange Act

Date Filed: 02/04/2000

Jury Demand: Plaintiff

Nature of Suit: 850

Securities/Commodities

Jurisdiction: Federal Question

Plaintiff

Dov Klein

*On behalf of himself and all others
similarly situated*

represented by **Roger B Greenberg**

Schwartz Junell et al

909 Fannin

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Houston, TX 77010

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Email: rgreenberg@schwartz-junell.com

LEAD ATTORNEY

ATTORNEY TO BE NOTICED

David E Sharp

Beirne Maynard et al

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ATTORNEY TO BE NOTICED

Jan M Adler

Lerach Coughlin et al

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ATTORNEY TO BE NOTICED

Karen L Thomas

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ATTORNEY TO BE NOTICED

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ATTORNEY TO BE NOTICED

Plaintiff

BMC Software Plaintiff Group

*Associated Trust Company, Piedra
Capital, Ltd, James Farris, Thomas
Griffith for Society of the Divine Word and
Kosair Charities, collected referred to as
the "BMC Software Plaintiff Group"*

represented by **David E Sharp**

(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Jan M Adler

(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Karen L Thomas

(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Roger B Greenberg

(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Tricia L McCormick

(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

V.

Consol Plaintiff

Stuart Weisenfeld

*on Behalf of Himself and All Others
Similarly Situated*

represented by **Roger B Greenberg**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Consol Plaintiff

Edmond Malouf

*on Behalf of Himself and All Others
Similarly Situated*

represented by **Roger B Greenberg**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Consol Plaintiff

Mildred Fielden

*on Behalf of Herself and All Others
Similarly Situated*

represented by **Thomas E Bilek**
Hoeffner and Bilek LLP
1000 Louisiana
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Houston, TX 77002
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LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Consol Plaintiff

Dowling Enterprises of Waycross Inc

*on Behalf of Itself and All Others Similarly
Situated*

represented by **Roger B Greenberg**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Consol Plaintiff

Narciso Aggio

*individually and on behalf of himself and
all others similarly situated*

represented by **Michael Braun**
Stull Stull et al
10940 Wilshire Blvd
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Los Angeles, CA 90024
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Fax: 310-209-2087 fax
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Thomas E Bilek
(See above for address)
LEAD ATTORNEY

ATTORNEY TO BE NOTICED

Consol Plaintiff

Todd Sherwin

*individually and on behalf of himself and
all others similarly situated*

represented by **Michael Braun**

(See above for address)

LEAD ATTORNEY

ATTORNEY TO BE NOTICED

Thomas E Bilek

(See above for address)

LEAD ATTORNEY

ATTORNEY TO BE NOTICED

Consol Plaintiff

Dean Francola

*individually and on behalf of himself and
all others similarly situated*

represented by **Thomas E Bilek**

(See above for address)

LEAD ATTORNEY

ATTORNEY TO BE NOTICED

Consol Plaintiff

James P Smith

*individually and on behalf of himself and
all others similarly situated*

represented by **John G Emerson**

Emerson Poynter LLP

500 President Clinton Ave

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Little Rock, AR 72201

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Email: john@emersonpoynter.com

LEAD ATTORNEY

ATTORNEY TO BE NOTICED

Consol Plaintiff

Larry Frangiosa

*individually and on behalf of himself and
all others similarly situated*

represented by **John G Emerson**

(See above for address)

LEAD ATTORNEY

ATTORNEY TO BE NOTICED

Consol Plaintiff

Richard Platzer

*on behalf of himself and all others
similarly situated*

represented by **John G Emerson**

(See above for address)

LEAD ATTORNEY

ATTORNEY TO BE NOTICED

Consol Plaintiff

Josephine Platzer
on behalf of herself and all others
similarly situated

represented by **John G Emerson**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

V.

Defendant

BMC Software Inc

represented by **Charles W Schwartz**
Skadden Arps et al
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Fax: 713-655-5200
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ATTORNEY TO BE NOTICED

Terry T Johnson
Wilson Sonsini et al
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ATTORNEY TO BE NOTICED

Defendant

Richard P Gardner

represented by **Charles W Schwartz**
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LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Terry T Johnson
(See above for address)
ATTORNEY TO BE NOTICED

Defendant

Stephen B Solcher

represented by **Charles W Schwartz**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Terry T Johnson
(See above for address)

ATTORNEY TO BE NOTICED

Defendant

Roy J Wilson

represented by **Charles W Schwartz**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Terry T Johnson
(See above for address)
ATTORNEY TO BE NOTICED

Defendant

Kevin M Weiss

represented by **Charles W Schwartz**
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LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Terry T Johnson
(See above for address)
ATTORNEY TO BE NOTICED

Defendant

Kevin M Klausmeyer

represented by **Charles W Schwartz**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Terry T Johnson
(See above for address)
ATTORNEY TO BE NOTICED

Defendant

Max P Watson, Jr

represented by **Charles W Schwartz**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Terry T Johnson
(See above for address)
ATTORNEY TO BE NOTICED

Defendant

William M Austin

represented by **Charles W Schwartz**
(See above for address)

*LEAD ATTORNEY
ATTORNEY TO BE NOTICED*

Terry T Johnson
(See above for address)
ATTORNEY TO BE NOTICED

Defendant

Wayne S Morris

represented by **Charles W Schwartz**
(See above for address)
*LEAD ATTORNEY
ATTORNEY TO BE NOTICED*

Terry T Johnson
(See above for address)
ATTORNEY TO BE NOTICED

Defendant

M Brinkley Morse

represented by **Charles W Schwartz**
(See above for address)
*LEAD ATTORNEY
ATTORNEY TO BE NOTICED*

Terry T Johnson
(See above for address)
ATTORNEY TO BE NOTICED

Defendant

Robert E Beauchamp

represented by **Charles W Schwartz**
(See above for address)
*LEAD ATTORNEY
ATTORNEY TO BE NOTICED*

Terry T Johnson
(See above for address)
ATTORNEY TO BE NOTICED

Defendant

Theodore W Van Duyn

represented by **Charles W Schwartz**
(See above for address)
*LEAD ATTORNEY
ATTORNEY TO BE NOTICED*

Terry T Johnson
(See above for address)
ATTORNEY TO BE NOTICED

V.

Consol Defendant

Garland B Cupp

represented by **Charles W Schwartz**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Consol Defendant

Lew Gray

represented by **Charles W Schwartz**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Consol Defendant

Brinkley Morse

represented by **Charles W Schwartz**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Movant

"Aggio Pltfs"

*Narcisco Aggio, Todd Sherwin and Dean
Francola, on Behalf of Themselves and all
Others Similarly Situated (collectively
referred to as the "Aggio Plaintiffs")*

represented by **Thomas E Bilek**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

| Date Filed | # | Docket Text |
|-------------------|----------|---|
| 02/04/2000 | 1 | COMPLAINT by Dov Klein filed; FILING FEE \$ 150.00 RECEIPT # 497640 (bchurchill) (Entered: 02/04/2000) |
| 02/04/2000 | 2 | Order setting Initial Pretrial and Scheduling Conference on 4:00 4/24/00 by telephone before Judge Kenneth M. Hoyt and Order to Disclose Interested Persons, filed. Party filing case notified. (bchurchill) Modified on 03/23/2000 (Entered: 02/04/2000) |
| 02/04/2000 | 3 | CERTIFICATE OF INTERESTED PARTIES by Dov Klein , filed. (bchurchill) (Entered: 02/04/2000) |
| 02/08/2000 | | 7 SUMMONS issued (khightower) (Entered: 02/08/2000) |
| 02/08/2000 | 4 | NOTICE of entry of appearance for Dov Klein by attorney Jack Fruchter, filed (khightower) (Entered: 02/08/2000) |

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| 03/07/2000 | 5 | AGREED MOTION to consolidate actions, designate caption for consolidated actions and enter scheduling order , filed (fmrem) (Entered: 03/08/2000) |
| 03/09/2000 | 6 | AGREED ORDER OF CONSOLIDATION, Designate Caption for Consolidated Actions and Enter Scheduling Order: Actions H-00-403, H-00-516, H-00-526, H-00529 are consolidated under CA-H-00359, and every pleading shall bear the caption In Re: Securities Litigation Against BMC Software, Inc.; Lead Pltfs shall file a consolidated class action complaint w/in 60 days after receipt of notice of appointment, unless otherwise agreed between the parties and all Defts shall have 60 days after the filing and service of the consolidated action to answer or respond; if Defts make a Motion to Dismiss, then Pltfs shall have 60 days after service of such motion to respond, Defts shall then have 30 days to file a reply, entered, Parties notified. (signed by Judge Kenneth M. Hoyt) (fmrem) Modified on 04/06/2000 (Entered: 03/09/2000) |
| 03/09/2000 | | Consolidated Lead Case (fmrem) (Entered: 03/09/2000) |
| 03/10/2000 | 7 | RETURN OF SERVICE executed as to Richard P Gardner 2/29/00 filed Answer due on 3/20/00 (Re: H-00516) (fmrem) (Entered: 03/13/2000) |
| 03/10/2000 | 8 | RETURN OF SERVICE executed as to BMC Software Inc 2/18/00 filed Answer due on 3/9/00 (fmrem) (Entered: 03/13/2000) |
| 03/10/2000 | 9 | RETURN OF SERVICE executed as to Theordore W Van Duyn 2/18/00 filed Answer due on 3/9/00 (fmrem) (Entered: 03/13/2000) |
| 03/10/2000 | 10 | RETURN OF SERVICE executed as to M Brinkley Morse 2/18/00 filed Answer due on 3/9/00 (fmrem) (Entered: 03/13/2000) |
| 03/10/2000 | 11 | RETURN OF SERVICE executed as to Robert E Beauchamp 2/18/00 filed Answer due on 3/9/00 (fmrem) (Entered: 03/13/2000) |
| 03/10/2000 | 12 | RETURN OF SERVICE executed as to Wayne S Morris 2/18/00 filed Answer due on 3/9/00 (fmrem) (Entered: 03/13/2000) |
| 03/10/2000 | 13 | RETURN OF SERVICE executed as to Roy J Wilson 2/18/00 filed Answer due on 3/9/00 (fmrem) (Entered: 03/13/2000) |
| 03/10/2000 | 14 | RETURN OF SERVICE executed as to Stephen B Solcher 2/18/00 filed Answer due on 3/9/00 (fmrem) (Entered: 03/13/2000) |
| 03/10/2000 | 15 | RETURN OF SERVICE executed as to William M Austin 2/18/00 filed Answer due on 3/9/00 (fmrem) (Entered: 03/13/2000) |
| 03/10/2000 | 16 | RETURN OF SERVICE executed as to Max P Watson Jr 2/18/00 filed Answer due on 3/9/00 (fmrem) (Entered: 03/13/2000) |
| 03/10/2000 | 17 | RETURN OF SERVICE executed as to Kevin M Weiss 2/18/00 filed Answer due on 3/9/00 (fmrem) (Entered: 03/13/2000) |
| 03/10/2000 | 18 | RETURN OF SERVICE executed as to Richard P Gardner 2/29/00 filed Answer due on 3/20/00 (H-00-403) (fmrem) (Entered: 03/13/2000) |
| 03/10/2000 | 19 | RETURN OF SERVICE executed as to Theordore W Van Duyn 2/18/00 filed Answer due on 3/9/00 (H-00-403) (fmrem) (Entered: 03/13/2000) |

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| 03/10/2000 | 20 | RETURN OF SERVICE executed as to Kevin M Weiss 2/18/00 filed Answer due on 3/9/00 (H-00-403) (fmrem) (Entered: 03/13/2000) |
| 03/10/2000 | 21 | RETURN OF SERVICE executed as to Max P Watson Jr 2/18/00 filed Answer due on 3/9/00 (H-00-403) (fmrem) (Entered: 03/13/2000) |
| 03/10/2000 | 22 | RETURN OF SERVICE executed as to William M Austin 2/18/00 filed Answer due on 3/9/00 (H-00-403) (fmrem) (Entered: 03/13/2000) |
| 03/10/2000 | 23 | RETURN OF SERVICE executed as to Stephen B Solcher 2/18/00 filed Answer due on 3/9/00 (Re: H-00-403) (fmrem) (Entered: 03/13/2000) |
| 03/10/2000 | 24 | RETURN OF SERVICE executed as to Wayne S Morris 2/18/00 filed Answer due on 2/18/00 (Re: H-00-403) (fmrem) (Entered: 03/13/2000) |
| 03/10/2000 | 25 | RETURN OF SERVICE executed as to Wayne S Morris 2/18/00 filed Answer due on 3/9/00 (H-00-403) (fmrem) (Entered: 03/13/2000) |
| 03/10/2000 | 26 | RETURN OF SERVICE executed as to BMC Software Inc 2/18/00 filed Answer due on 3/9/00 (H-00-403) (fmrem) (Entered: 03/13/2000) |
| 03/10/2000 | 27 | RETURN OF SERVICE executed as to Robert E Beauchamp 2/18/00 filed Answer due on 3/9/00 (H-00-403) (fmrem) (Entered: 03/13/2000) |
| 03/10/2000 | 28 | RETURN OF SERVICE executed as to Roy J Wilson 2/18/00 filed Answer due on 3/9/00 (H-00-403) (fmrem) (Entered: 03/13/2000) |
| 03/13/2000 | | NOTICE OF CONSOLIDATION of Civil Action H-00-859 pursuant to Order of Judge Hoyt entered on 3/9/00 in CA-H-00-359 (fmrem) (Entered: 04/06/2000) |
| 04/04/2000 | 29 | MOTION to appoint the BMC Software pltf group as lead pltf pursuant to section 21D(a)(3)(B) of the Securities Exchange Act of 1934 and to approve lead pltf's selection of lead counsel by Dov Klein et al, Motion Docket Date 4/24/00 [29-1] motion, 4/24/00 [29-2] motion , filed. (ddarneille) (Entered: 04/04/2000) |
| 04/04/2000 | 30 | DECLARATION in support of [29-1] motion to appoint the BMC Software pltf group as lead pltf, [29-2] motion to approve lead pltf's selection of lead counsel by David E Sharp, attorney for Dov Klein et al, filed. (ddarneille) (Entered: 04/04/2000) |
| 04/04/2000 | | Rec'd and fwd'd to CRD: motion & order for admission pro hac vice by Tricia L McCormick to represent pltfs. (ddarneille) (Entered: 04/04/2000) |
| 04/04/2000 | | Rec'd and fwd'd to CRD: motion & order for admission pro hac vice by Karen Thomas to represent pltfs. (ddarneille) (Entered: 04/04/2000) |
| 04/04/2000 | | Rec'd and fwd'd to CRD: motion & order for admission pro hac vice of Jan M Adler to represent plts. (ddarneille) (Entered: 04/04/2000) |
| 04/05/2000 | 31 | ORDER that Jan M Adler is admitted pro hac vice pursuant to L. R. 1 for all Plaintiffs, entered. Parties ntf. (Signed by Judge Kenneth M. Hoyt) (fmrem) Modified on 04/06/2000 (Entered: 04/06/2000) |
| 04/05/2000 | 32 | ORDER that Tricia L McCormick is admitted pro hac vice for all Plaintiffs pursuant to L. R. 1, entered. Parties ntf. (Signed by Judge Kenneth M. Hoyt) |

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| | | (fmrem) Modified on 04/06/2000 (Entered: 04/06/2000) |
| 04/05/2000 | 33 | ORDER that Karen Thomas is admitted to proceed pro hac vice for all Plaintiffs pursuant to L. R. 1, entered. Parties ntf. (Signed by Judge Kenneth M. Hoyt) (fmrem) Modified on 04/06/2000 (Entered: 04/06/2000) |
| 04/06/2000 | 34 | ORDER that the Pltfs, etals' [29-1] motion to appoint the BMC Software pltf group as lead pltf is STRICKEN - Motion does not comply with LR6, no statement of opposition or non-opposition, no statement of conference between counsel entered; Parties notified. (signed by Judge Kenneth M. Hoyt) (fmrem) (Entered: 04/06/2000) |
| 04/06/2000 | | Deadline updated per [34-1] order; striking [29-2] motion to approve lead pltf's selection of lead counsel (Itien) (Entered: 04/07/2000) |
| 04/07/2000 | | Rec'd and fwd'd to crd: motion and order for admission pro hac vice by Terry T Johnson to represent all defts. (ddarneille) (Entered: 04/07/2000) |
| 04/10/2000 | 35 | ORDER that Terry T Johnson is admitted pro hac vice pursuant to L. R. 1 for al defts, entered. Parties ntf. (Signed by Judge Kenneth M. Hoyt) (fmrem) (Entered: 04/10/2000) |
| 04/11/2000 | 36 | MOTION to reinstate and consider motion to appoint the BMC Software Pltf Group as Lead Pltf pursuant to 21D(a)(3)(B) of The Securities Exchange Act of 1934 , and to approve Lead Pltf's Selection of Lead Counsel Selection of Lead by BMC Software Pltf Group, Motion Docket Date 5/1/00 [36-1] motion, 5/1/00 [36-2] motion, 5/1/00 [36-3] motion , filed. (Placed in Brown Expandable Folder) (fmrem) (Entered: 04/11/2000) |
| 04/13/2000 | 37 | AGREED ORDER ON MOTION TO REINSTATE the Motion to Appoint The BMC Software Plaintiff Group as Lead Plaintiff and to Approve Lead Pltf's Selection of Lead Counsel is reinstated and will be considered in due course, entered; Parties notified. (signed by Judge Kenneth M. Hoyt) (fmrem) (Entered: 04/13/2000) |
| 04/13/2000 | | Deadline updated; terminating [36-2] motion consider motion to appoint the BMC Software Pltf Group as Lead Pltf pursuant to 21D(a)(3)(B) of The Securities Exchange Act of 1934 (Itien) (Entered: 04/14/2000) |
| 04/14/2000 | 38 | UNOPPOSED JOINT MOTION to extend initial pretrial/ scheduling conference deadline of 4/24/00 at 4:00 pm and joint report of meeting and joint discovery/case mgmt plan by 4/14/00 by Pltfs and Defts, filed (fmrem) (Entered: 04/17/2000) |
| 04/18/2000 | 39 | ORDER ON UNOPPOSED JOINT MOTION to Extend Initial Pretrial and Scheduling Conference to a date convenient to the Court after the filing of the consolidated amended complaint, entered, Parties notified. (signed by Judge Kenneth M. Hoyt) (fmrem) (Entered: 04/18/2000) |
| 05/10/2000 | 40 | NOTICE of Withdrawal of Pltfs Brian Sullivan and Link Group, LLC as representative parties on behalf of the class filed (fmrem) (Entered: 05/10/2000) |
| 06/12/2000 | 41 | ORDER that BMC Software Pltf Group's [29-1] motion for appointment as Lead Pltf and to Approve Lead Pltf's Selection of the law firm of Milberg, Weiss, Bershad, Hynes & Lerach as Lead Counsel and Greenberg, Peden, Siegmyer & |

| | | |
|------------|--------------------|---|
| | | Oshman is appointed as Liaison Counsel for the Class is GRANTED; entered; Parties notified. (signed by Judge Kenneth M. Hoyt) (fmrempp) (Entered: 06/13/2000) |
| 06/16/2000 | 42 | UNOPPOSED MOTION to transfer related case by Dov Klein, Stuart Weisenfeld, Motion Docket Date 7/6/00 [42-1] motion , filed. (psmith) (Entered: 06/16/2000) |
| 06/16/2000 | 43 | NOTICE of Related Case, by Dov Klein, Stuart Weisenfeld, et al, filed (psmith) (Entered: 06/16/2000) |
| 06/20/2000 | 44 | ORDER GRANTING PLAINTIFFS' UNOPPOSED Motion to Transfer Case; Related Case In Re Securities Litigation Against BMC Software, Inc, Master File No H-00-0359 is transferred to Judge Hitner, before whom In Re BMC Software, Inc, Sec Litig, Master File No 99-CV-715 is currently pending, entered; Parties notified. (signed by Judge David Hittner (fmrempp) (Entered: 06/21/2000) |
| 06/20/2000 | | CASE reassigned to Judge David Hittner (fmrempp) (Entered: 06/21/2000) |
| 06/27/2000 | 45 | ORDER that Rule 16 Scheduling Conference is set for 7/21/00 at 9:30 am before Magistrate Marcia Crone, entered, Parties notified. (signed by Judge David Hittner) (fmrempp) (Entered: 06/29/2000) |
| 07/21/2000 | 46 | RULE 16 SCHEDULING ORDER: New Parties 7/1/01; Designation of Experts by Pltf 9/1/02 and by Deft 10/1/02; Discovery 1/16/03; Amendments to Pleadings 7/1/02; Motion Cut-Off 1/31/03; Joint Pretrial Order 4/20/03; Trial Term: May/June 2003; The Parties request that the Court enter a new scheduling order, if any, Pltf's complaint is sustained, entered. Parties notified. (Signed by Magistrate Judge Marcia A. Crone) (fmrempp) Modified on 07/24/2000 (Entered: 07/24/2000) |
| 07/21/2000 | 47 | MINUTES OF RULE 16 SCHEDULING CONFERENCE held before Magistrate Judge Marcia Crone on 7/21/00: Attorney Appearances by Schwartz f/BMC Defts, Sharp/McCormick f/Pltfs and The Class; Taped: 072100mac1(704), Scheduling Order entered; This is a case subject to the Private Securities Litigation Reform Act of 1995 ("PSLRA"); This case is subject to the automatic stay provided for under the PSLRA; Judge Hoyt has previously entered an order making Pltfs amended consolidated class action complaint due 8/14/00; (Counsel suggest that the Court adopt that Order); Counsel also suggest that Defts' Motion to Dismiss be due 60 days thereafter which was ordered by Judge Hoyt and request that the court adopt, filed (fmrempp) (Entered: 07/24/2000) |
| 08/08/2000 | 48 | ORDER OF RECUSAL, entered; Parties notified. (signed by Judge David Hittner) Case reassigned to Judge Nancy F. Atlas (fmrempp) (Entered: 08/11/2000) |
| 08/14/2000 | 49 | ORDER OF RECUSAL, entered; Parties notified. (signed by Judge Nancy F. Atlas) Case reassigned to Judge Melinda Harmon. (ddarneille) (Entered: 08/15/2000) |
| 08/14/2000 | 50 | CONSOLIDATED AMENDED COMPLAINT by BMC Software Pltf Gr, Dov Klein, Stuart Weisenfeld, Edmond Malouf, Milred Fielden, Dowling Enterprises, (Answer due 8/24/00 for Theodore W Van Duyn, for Robert E Beauchamp, for M Brinkley Morse, for Wayne S Morris, for William M Austin, for Max P Watson Jr, for M Klausmeyer, for Kevin M Weiss, for Roy J Wilson, for Stephen B Solcher, for Richard P Gardner, for BMC Software Inc) amending [1-1] complaint, filed. |

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| | | (ddarneille) (Entered: 08/16/2000) |
| 08/16/2000 | | ORDER OF REFERENCE TO MAGISTRATE: Case Referred for Scheduling of a Pretrial and Scheduling Conference (fmrem) (Entered: 08/16/2000) |
| 08/18/2000 | 51 | ORDER SETTING SCHEDULING CONFERENCE: Rule 16 Scheduling Conference for 9:00 am on 10/3/00 before Magistrate Judge Frances H. Stacy in Ctrm 702 , entered; Parties notified. (signed by Magistrate Judge Frances H. Stacy) (fmrem) (Entered: 08/21/2000) |
| 08/22/2000 | 52 | MOTION to consolidate for all purposes , by Lead Counsel for Pltfs, Motion Docket Date 9/11/00 [52-1] motion , filed. (psmith) (Entered: 08/22/2000) |
| 08/24/2000 | | ORDER OF REFERENCE TO MAGISTRATE JUDGE FRANCES H STACY - Referred to Magistrate to cancel Initial Pretrial and Scheduling Conference set for 10/3/00 (fmrem) (Entered: 08/25/2000) |
| 08/25/2000 | 53 | SUPPLEMENT to Lead Pltfs, the Movants' [52-1] motion to consolidate for all purposes, filed. (fmrem) (Entered: 08/25/2000) |
| 08/25/2000 | 54 | ORDER VACATING SCHEDULING CONFERENCE: The Rule 16 Conference set for 10/3/00 is VACATED , entered; Parties notified. (signed by Magistrate Judge Frances H. Stacy) (fmrem) (Entered: 08/28/2000) |
| 09/01/2000 | 55 | OPPOSED MOTION for extension of time to respond to the motion for consolidation by "Aggio Pltfs", Motion Docket Date 9/21/00 [55-1] motion , filed. (fmrem) Modified on 09/07/2000 (Entered: 09/06/2000) |
| 09/06/2000 | 56 | OPPOSITION by Lead Pltfs to The Aggio's [55-1] motion for extension of time to respond to the motion for consolidation, filed (fmrem) (Entered: 09/07/2000) |
| 09/06/2000 | 57 | SECOND SUPPLEMENT to [52-1] motion to consolidate for all purposes by Lead Pltfs, filed. (fmrem) (Entered: 09/07/2000) |
| 09/11/2000 | 58 | Unopposed MOTION to withdraw as counsel (Thomas E Bilek, Fred Taylor Isquith, Shane T Rowley and law firms of Hoeffner, Bilek & Eidman, LLP and Wolf Haldenstein Adler Freeman & Herz, LLP) by Mildred Fielden, Motion Docket Date 10/1/00 [58-1] motion , filed. (fmrem) (Entered: 09/11/2000) |
| 09/12/2000 | 59 | UNOPPOSED MOTION REGARDING SCHEDULING: request that their time to answer, move, or otherwise plead be extended until 45 days after the Court resolves the consolidation controversy by Defts BMC Software Inc, etals Motion Docket Date 10/2/00 [59-1] motion , filed. (fmrem) (Entered: 09/13/2000) |
| 09/19/2000 | 60 | ORDER: The Aggio Plaintiffs' motion for extension of time to respond to motion for consolidation [55] is DENIED; Pltfs' motion to consolidate, with supplements, is GRANTED and all the above referenced cases are consolidated into H-00-359; Defts' unopposed motion to extend time to answer the complaint (#5 in H-00-2998), and Defts' motion to modify the scheduling order (#59) are GRANTED and all current deadlines are VACATED; Counsel for all parties shall appear for a status conference on 10/6/00 at 2:00 pm in Ctrm 9C, at which time a briefing schedule for motions for new lead Plaintiff and Lead Counsel will be established; the unopposed motion to withdraw as counsel for Mildred Fielden, filed by Thomas E Bilek, Fred Taylor Isquith, Shane T Rowley and the law firms of Hoeffner, Bilek |

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| | | & Eidman, LLP and Wolf Haldenstein Adler Freeman and Herz, LLP [58] is currently DENIED, but may be reurged before at the status conference is appropriate, entered; Parties notified. (signed by Judge Melinda Harmon) (fmrempp) (Entered: 09/20/2000) |
| 10/05/2000 | 61 | MOTION for Michael Braun to appear pro hac vice by Todd Sherwin, Motion Docket Date 10/25/00 [61-1] motion , filed. (psmith) (Entered: 10/05/2000) |
| 10/05/2000 | 62 | MOTION for Michael Braun to appear pro hac vice by Narciso Aggio, Motion Docket Date 10/25/00 [62-1] motion , filed. (psmith) (Entered: 10/05/2000) |
| 10/05/2000 | 63 | ORDER entered: Counsel to file submissions only under the master file number 00-359. Clerk to file the two motions for admission pro hac vice re Michael Braun in 00-2461 and 00-2464. Todd Sherwin's [61-1] motion for Michael Braun to appear pro hac vice and Narciso Aggio's [62-1] motion for Michael Braun to appear pro hac vice are GRANTED. Parties notified. (signed Judge Melinda Harmon) (psmith) (Entered: 10/05/2000) |
| 10/05/2000 | 64 | STATUS CONFERENCE STATEMENT by Dov Klein (fmrempp) (Entered: 10/05/2000) |
| 10/06/2000 | | Rec'd and fwd to CRD: Arnold Levin's Motion and Order for Admission pro hac vice for Narciso Aggio. (fmrempp) (Entered: 10/06/2000) |
| 10/06/2000 | 65 | MINUTES OF STATUS CONFERENCE held before Judge Harmon on 10/6/00: Atty App(s) by Sharp/Greenberg/Thomas/Bilek/Braun f/Pltf DOV KLEIN, etals and Schwartz f/Deft BMC, etals, Ct Rptr - Kathy Metzger, Parties announce that they have agreed to keep the lead plaintiff and lead counsel as is and the others will assist; Pltf's proposed dates for the briefing schedule are accepted, Order to be issued, filed (fmrempp) (Entered: 10/10/2000) |
| 10/10/2000 | 66 | ORDER that the following briefing schedule is in effect: Defts' motion to dismiss Consolidated Amended Complaint shall be filed by 12/6/00; Pltfs' Response shall be filed by 2/6/01; Defts' Reply shall be filed by 3/6/01, entered; Parties notified. (signed by Judge Melinda Harmon) (fmrempp) (Entered: 10/10/2000) |
| 10/13/2000 | 67 | MOTION to withdraw the motion for Arnold Levin to appear pro hac vice by Narciso Aggio, Motion Docket Date 11/2/00 [67-1] motion , filed. (fmrempp) Modified on 10/18/2000 (Entered: 10/13/2000) |
| 10/13/2000 | 69 | MOTION for Arnold Levin for withdrawal of pro hac vice motion and order by Todd Sherwin, Motion Docket Date 11/2/00 [69-1] motion , filed. (psmith) (Entered: 10/19/2000) |
| 10/17/2000 | 68 | ORDER granting [67-1] motion to withdraw the Motion and Order for Arnold Levin to appear pro hac vice , entered; Parties notified. (signed by Judge Melinda Harmon) (fmrempp) Modified on 10/18/2000 (Entered: 10/17/2000) |
| 10/17/2000 | 70 | ORDER entered GRANTING the [69-1] motion for Arnold Levin for withdrawal of pro hac vice motion and order to represent Pltf Todd Sherwin; Parties notified. (signed by Judge Melinda Harmon) (psmith) (Entered: 10/19/2000) |
| 10/20/2000 | 71 | TRANSCRIPT OF PROCEEDINGS of STATUS CONFERENCE for dates of Oct 6, 2000 before Judge Melinda Harmon , filed. (Court Rptr: K Metzger) (psmith) |

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| | | (Entered: 10/20/2000) |
| 12/06/2000 | 72 | MOTION to dismiss by Defts BMC Software Inc, Max P Watson Jr, William M Austin, Richard P Gardner, Robert E Beauchamp, M Brinkley Morse, Kevin M Weiss, Roy J Wilson, Wayne S Theodore W Van Duyn, Kevin M Klausmeyer and Stephen B Solcher, Motion Docket Date 12/26/00 [72-1] motion , filed. (fmrem) (Entered: 12/07/2000) |
| 12/06/2000 | 73 | MEMORANDUM by Defts BMC Software Inc, Richard P Gardner, Stephen Solcher, Roy J Wilson, Kevin M Weiss, Kevin M Klausmeyer, Max P Watson Jr, William M Austin, Wayne S Morris, M Brinkley Morse, Robert E Beauchamp and Theodore W Van Duyn in support of its [72-1] motion to dismiss, filed (fmrem) (Entered: 12/07/2000) |
| 12/06/2000 | 74 | (5) VOLUMES OF APPENDIX by Defts BMC Software Inc, Richard P Gardner, Stephen B Solcher, Roy J Wilson, Kevin M Weiss, Kevin M Klausmeyer, Max P Watson Jr, William M Austin, Wayne S Morris, M Brinkley Morse, Robert E Beauchamp, Theodore W Van Duyn to [73-1] memorandum in support of its [72-1] motion to dismiss, filed (fmrem) (Entered: 12/07/2000) |
| 01/10/2001 | 75 | Unopposed JOINT MOTION to modify briefing schedule regarding Defts motion to dismiss , by Dov Klein, BMC Software Inc, Richard P Gardner, Stephen B Solcher, et al, filed (psmith) (Entered: 01/15/2001) |
| 01/16/2001 | 76 | ORDER granting the parties' [75-1] joint motion to modify briefing schedule regarding Defts Motion to Dismiss; 3/6/01 shall be the last day for pltf's to file an opposition to Defts' Motion to Dismiss; 4/23/01 shall be the last day for Defts to file a Reply in Support of Motion to Dismiss; any prior scheduling orders concerning briefing on the motion to dismiss are vacated, entered; Parties notified. (signed by Judge Melinda Harmon) (fmrem) (Entered: 01/17/2001) |
| 03/06/2001 | 77 | MOTION to strike Improper Exhibits and Arguments from Defts' [73-1] submissions in support of their motion to dismiss by Pltf's Dov Klein, etals, Motion Docket Date 3/26/01 [77-1] motion , filed. (fmrem) (Entered: 03/07/2001) |
| 03/06/2001 | 78 | MEMORANDUM OF LAW by Pltf's Dov Klein, etals in support of their [77-1] motion to strike improper exhibits and arguments from Defts' [73-1] submissions in support of their motion to dismiss, filed (fmrem) (Entered: 03/07/2001) |
| 03/06/2001 | 79 | MEMORANDUM IN OPPOSITION by Pltf's Dov Klein, etals to Defts' [72-1] motion to dismiss, filed (fmrem) (Entered: 03/07/2001) |
| 03/06/2001 | 80 | APPENDIX OF UNREPORTED DECISIONS by Pltf's Dov Klein, etals cited in Pltf's [79-1] Memorandum in Opposition to Defts' Motion to Dismiss, filed. (Placed in Brown Expandable Folder) (fmrem) (Entered: 03/07/2001) |
| 03/26/2001 | 81 | RESPONSE by Defts BMC Software, etals to Pltf's [77-1] motion to strike Improper Exhibits and Arguments [73-1] submissions in support of their motion to dismiss, filed. (fmrem) Modified on 03/28/2001 (Entered: 03/27/2001) |
| 04/23/2001 | 82 | REPLY MEMORANDUM by Pltf's Dov Klein, etals in support of [77-1] motion to strike Improper Exhibits and Arguments from Defts' [73-1] submissions in support of their motion to dismiss, filed. (fmrem) (Entered: 04/24/2001) |

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| 04/23/2001 | 83 | REPLY by Defts BMC Software Inc, etals in support of their [72-1] motion to dismiss, filed. (fmrem) (Entered: 04/24/2001) |
| 04/23/2001 | 84 | APPENDIX by Defts BMC Software Inc, etals in support of their [83-1] Reply in support of [72-1] motion to dismiss, filed. (Placed in Brown Expandable Folder) (fmrem) (Entered: 04/24/2001) |
| 04/30/2001 | 85 | SUBMISSION OF SUPPLEMENTAL AUTHORITY IN OPPOSITION to [72-1] motion to dismiss by Dov Klein , filed. (mlerma) (Entered: 04/30/2001) |
| 06/26/2001 | 86 | NOTICE OF SUPPLEMENTAL AUTHORITY in support of their [72-1] motion to dismiss by Defts BMC Software Inc, etals, filed (fmrem) (Entered: 06/27/2001) |
| 07/05/2001 | 87 | Notice Of SUPPLEMENTAL Authority In Support Of Pltfs' [79-1] opposition To Defts' [72-1] motion to dismiss, filed (fmrem) (Entered: 07/05/2001) |
| 09/30/2001 | 88 | MEMORANDUM AND ORDER: Pltf's motion to strike is DENIED and Defts' motion to dismiss the amended complaint with prejudice to FRCP 12(b)(6) and 9(b) and the PSLRA; Final Judgment will issue by separate instrument, entered. Parties notified. (signed by Judge Melinda Harmon) (fmrem) (Entered: 10/01/2001) |
| 09/30/2001 | 89 | FINAL JUDGMENT OF DISMISSAL: The consolidated action is DISMISSED WITH PREJUDICE pursuant to FRCP 12(b)(6), 9(B) and the Private Securities Litigation Reform Act ("PSLRA"), 15 USC 78u-4 et seq., entered. Parties ntfd. (signed by Judge Melinda Harmon) (fmrem) (Entered: 10/01/2001) |
| 09/30/2001 | | Case closed (fmrem) (Entered: 10/01/2001) |
| 10/30/2001 | | Rec'd Stipulation and Incorporated Order Regarding Termination of this action; fwd to Judge (fmrem) (Entered: 11/01/2001) |
| 11/08/2001 | 90 | STIPULATION AND ORDER REGARDING TERMINATION OF THIS ACTION: entered; parties to bear their own fees, costs and expenses as sanctions or otherwise, Parties notified. (signed by Judge Melinda Harmon) (fmrem) (Entered: 11/09/2001) |
| 11/13/2001 | 91 | Notice of change of address by Roger B Greenberg f/Dowling Enterprises, Edmond Malouf, Stuart Weisenfeld, BMC Software Pltf Gr, Dov Klein filed. (fmrem) (Entered: 11/14/2001) |

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