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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Teamsters Local 617 Pension and Welfare Funds, on behalf of itself and all other similarly situated,

No. 2:06-CV-2674-PHX-RCB

ORDER

Plaintiff,

vs.

Apollo Group, Inc.; John G. Sperling; Todd S. Nelson; Kenda B. Gonzales; Peter V. Sperling; Daniel E. Bachus; Dino J. Deconcini, J. Jorge Klor De Alva; Thomas C. Wier; John R. Norton, III; Hedy F. Governar; John Blair,

Defendants.

This is a securities fraud class action brought pursuant to the Securities Exchange Act of 1934 as amended by the Private Securities Litigation Reform Act of 1995 ("the Reform Act" or "the PSLRA"). Currently pending before the court are four competing motions, which were filed on January 3, 2007, wherein the movants are each seeking appointment as lead plaintiff pursuant to section 78u-4(a)(3) of the Reform Act. Additionally, the movants are seeking court approval of their respective counsel as lead counsel

1 and liaison counsel in accordance with section 78u-4(a)(3)(B) (v)
2 of that Act. Having determined that oral argument is unnecessary,
3 the court rules as follows.

4 Teamsters Local 617 Pension and Welfare Funds ("Teamsters
5 Local"), which filed the class action complaint herein, filed the
6 first motion for appointment as lead plaintiff (doc. 21). It is
7 seeking approval of the the law firm of Schoengold Sporn Laitman &
8 Lometti, P.C. as lead counsel, and Dyer & Butler, LLP as liaison
9 counsel. The second motion for appointment as lead plaintiff was
10 filed by Folksam Asset Management ("Folksam Asset"), and it seeks
11 approval of Motley Rice LLC as lead counsel and Mitchell & Forest,
12 P.C. as liaison counsel (doc. 25). The Pension Trust Fund for
13 Operating Engineers ("Operating Engineers Fund") filed the third
14 motion seeking appointment as lead plaintiff, and for approval of
15 the law firm of Lerach Coughlin Stoia Geller Rudman & Robbins LLP
16 ("Lerach Coughlin") to serve as lead counsel and the law firm of
17 Buckley & King to serve as liaison counsel (doc. 30).

18 The fourth and final motion for appointment as lead plaintiff
19 was filed by the Bricklayers Fringe Benefit Fund, the Louisiana
20 District Attorneys' Retirement System; Capitalia Asset Management
21 SCR Spa and Capitalia Investment Management S.A. (collectively "the
22 Apollo Institutional Investors Group" or "AIIG"). See Doc. 34 at
23 1. AIIG is seeking approval of Pomerantz Haudek Block Grossman &
24 Gross LLP and Labaton Sucharow & Rudoff LLP as co-lead counsel and
25 Martin & Bonnett, P.L.L.C. as liaison counsel. In addition to
26 filing the enumerated motions, the movants filed proposed pre-trial
27 orders aimed at management of this complex litigation.

28

1 Responses to these various motions were timely filed by two of
2 the putative plaintiffs - the Operating Engineers Fund (doc. 50)
3 and Folksam Asset (doc. 49), as well as by defendants (doc. 48).
4 The Apollo Institutional Investors Group also filed a response, but
5 it was one day late. The Operating Engineers Fund seems to suggest
6 that under Local Rule 7.2(i), the court should deem this untimely
7 opposition as consent to granting its motion. See Doc. 53 at 2.
8 There is no need to invoke that Rule however because although AIIG
9 continues to pursue its own appointment as lead plaintiff, in its
10 response, tellingly, it concedes that the Operating Engineers
11 "still has . . . greater losses than the other movants[,]"
12 including AIIG. See Doc. 51 at 4.

13 Folksam Asset's response is equally telling in that it
14 expressly indicates that it "does not oppose the Operating
15 Engineer's appointment [as lead plaintiff][.]" Doc. 49 at 3
16 (emphasis added). Nor does Folksam Asset "question the ability of
17 [Operating Engineer Fund's] proposed counsel," Lerach Coughlin.
18 Id. Even though it is "not tak[ing] the position that Operating
19 Engineers should not be appointed[]" as lead plaintiff, Folksam
20 Asset raises the specter of a conflict if the court appoints that
21 Fund as lead plaintiff and approves its selected counsel. This
22 conflict which Folksam Asset anticipates (incorrectly as it turns
23 out) is due to the fact that Lerach Coughlin formerly represented
24 Alaska Electrical Pension Fund, a plaintiff in a related
25 stockholder derivative action against Apollo Group, Inc., one of
26 the defendants herein. See Doc. 50, exh. B thereto (Alaska
27 Electrical Pension Fund, Derivatively on Behalf of Apollo Group,
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1 Inc. v. Sperling, et al., No. CV-06-2124-PHX-ROS (D. Ariz. Jan. 4,
2 2007) (granting plaintiff's *ex parte* application for an order
3 approving the substitution of Provost Umphrey Law Firm, LLP. for
4 Lerach Coughlin).

5 Of equal if not more import is that defendants are "tak[ing]
6 no position" as to any of these motions. Defs. Resp. (doc. 48) at
7 2. Moreover, defendants do not even hint at the possibility that
8 Lerach Coughlin may have a conflict. At this juncture defendants
9 only concern is that the various proposed pre-trial management
10 orders "seek[] to impose obligations on [them] beyond the
11 requirements of the Federal Rules of Civil Procedure or otherwise
12 may be premature[.]" Id. Therefore, defendants have submitted
13 their own proposed pre-trial order for the court's consideration.
14 If the court does not sign that proposed order, defendants are
15 seeking an order requiring appointed lead plaintiff, through its
16 counsel, "to meet and confer pursuant to Rule 26(f) of the Federal
17 Rules of Civil Procedure . . . to negotiate a case management order
18 for the Court's consideration." Id. The Operating Engineers Fund
19 has "no[] objection to negotiating a case management order pursuant
20 to Fed. R. Civ. P. 26(f)[,]" as defendants urge. See Doc. 53 at 2,
21 n. 1.

22 Background

23 Broadly stated, the class action complaint alleges that
24 defendant Apollo Group and various of its individual officers and
25 directors engaged in securities fraud, including backdating stock
26 options. Amidst a "nation-wide" backdating options scandal, in
27 June 2006, Apollo Group "flatly denied" backdating stock options
28

1 however. Doc. 1 at 2, ¶ 4. According to the complaint, a few
2 months later, on October 18, 2006, Apollo Group "for the first time
3 disclosed that '[v]arious deficiencies in the process of granting
4 and documenting stock options have been identified[.]'" Id. at 3,
5 ¶ 6. At that same time, Apollo Group "disclosed" a "possible
6 restatement of [its] financial statements when the potential errors
7 are quantified and assessed." Id. at 3, ¶ 7. "The reaction of the
8 markets to this news was," the complaint alleges, "sharp and
9 swift[.]" with a "drop" in one day of "22.86% of Apollo Group's
10 stock prices. Id. at 3, ¶ 8.

11 Based upon the foregoing, the complaint further alleges that
12 during the Class Period defendants violated Sections 10(b) of the
13 Securities Exchange Act of 1934 and Rule 10b-5 promulgated
14 thereunder, by making materially false and misleading statements
15 "in an effort to maintain artificially high market prices for
16 Apollo's securities[.]" Id. at 24, ¶ 83. Plaintiff is also
17 asserting a claim for "control person" liability against the
18 individual defendants pursuant to section 20(a) of that Act. See
19 id. at 27-28, ¶¶ 92-95.

20 Discussion

21 I. Lead Plaintiff

22 A. Governing Legal Standards

23 1. Notice

24 The PSLRA sets forth a detailed procedure which putative
25 plaintiffs must follow when filing a securities fraud class
26 action such as this. The first plaintiff to file such an action
27 must, within 20 days of filing, "cause to be published, in a widely
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1 circulated national business-oriented publication or wire service,
2 a notice[.]” 15 U.S.C. § 78u-4(a)(3)(A)(i). Such notice “shall .
3 . . . advis[e] members of the purported plaintiff class . . . of the
4 pendency of the action, the claims asserted therein, and the
5 purported class period[.]” 15 U.S.C. § 78u-4(a)(3)(A)(i)(I). The
6 undisputed purpose of the PSLRA’s notice requirement is “to ensure
7 that the most adequate plaintiff emerges to the position of
8 representing the class.” Employers-Teamsters v. Anchor Capital
9 Advisors, 2007 WL 2325079, at *2, n.2 (9th Cir. Aug. 16, 2007).

10 To that end, class members who want to be appointed lead
11 plaintiff must make a motion within 60 days of that statutorily
12 mandated publication. See 15 U.S.C. § 78u-4(a)(3)(A)(i)(II). “Any
13 class member, regardless of whether he has filed a complaint, may
14 move for appointment as lead plaintiff.” Ferrari v. Gisch, 225
15 F.R.D. 599, 602 (C.D.Ca. 2004) (citing 15 U.S.C. § 78u-
16 4(a)(3)(B)(i)). If more than one action is filed, only the
17 plaintiff in the first filed action is required to publish notice.
18 See 15 U.S.C. § 78u(4)(a)(3)(A)(ii). However, “[e]ach prospective
19 lead plaintiff must provide a sworn certification representing
20 *inter alia* that he or she has read the complaint, did not purchase
21 the security at the direction of counsel or in order to participate
22 in any private action, and is willing to serve as a representative
23 party.” Richardson v. TVIA, Inc., 2007 WL 1129344, at *3 (N.D.
24 Cal. April 16, 2007) (citing 15 U.S.C. § 78u-4(a)(2)(A)(i)-(iii)).

25 On November 2, 2006, the Teamsters Local filed its class
26 action complaint and published the statutorily mandated notice on
27 Yahoo! Finance. See Doc. 22 (Decl’n of Jay. P. Saltzman (Jan. 3,
28

1 2007)), exh. 2 thereto. Each of the movants timely brought their
2 respective motions under the Reform Act for appointment as lead
3 plaintiff and approval of lead counsel. Each movant has likewise
4 included the statutorily required certification.¹ Despite the lack
5 of serious challenges to the appointment of the Operating Engineers
6 Fund as lead plaintiff,² the court must still follow the PSRLA's
7 "clear path" for selecting a lead plaintiff thereunder. See In re
8 Cavanaugh, 306 F.3d 726, 729 (9th Cir. 2002).

9 **2. Presumptive Lead Plaintiff**

10 **a. Financial Stake**

11 The PSLRA requires that the court "shall appoint as lead
12 plaintiff the member or members of the purported plaintiff class
13 that [it] determines to be most capable of adequately representing
14 the interests of the class members.'" Anchor Capital Advisors, 2007
15 WL 2325079, at *2 (quoting 15 U.S.C. § 78u-4(a)(3)(B)(i)).
16 Recognizing that the PSLRA "narrowly" defines "most capable[,]"
17 the Ninth Circuit has held that "[t]he 'most capable' plaintiff-and
18 hence the lead plaintiff-is the one who has the greatest stake in
19 the outcome of the case, so long as he meets the requirements of
20 Rule 23." Cavanaugh, 306 F.3d at 729 (footnote omitted). Thus, in
21 interpreting the PSLRA, the Ninth Circuit has set forth "a simple
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23

24 ¹ See Doc. 22 (Saltzman Decl'n.), exh. B thereto; Doc. 27 (Decl'n of
25 Lauren Antonino (Jan. 3, 2007)), exh. A thereto; Doc. 33 (Decl'n of Michael
26 Salcido (Jan. 3, 2007)), exh. C thereto; and Doc. 35 (Decl'n of Patrick V.
Dahlstrom), exh. B thereto.

27 ² In its Reply, Folksam Asset does contest appointment of the Apollo
28 Institutional Investors Group as lead plaintiff. But aside from noting the
possibility of a conflict in terms of Lerach Coughlin serving as lead counsel (a
conflict which Folksam admits "need not [be] determine[d] at this stage"),
Folksam is not challenging the propriety of appointing the Operating Engineers
Fund as lead plaintiff. See Doc. 54 at 4-5.

1 three-step process for identifying the lead plaintiff" thereunder.

2 Id. As previously noted, the first step is notice.

3 Step two focuses on "the losses allegedly suffered by the
4 various plaintiffs[.]" Id. In this regard, "[t]he district court
5 must compare the financial stakes of the various plaintiffs and
6 determine which one has the most to gain from the lawsuit." Id. at
7 730 (footnote omitted). The significance of this inquiry is
8 evident from the Cavanaugh Court's recognition that "a
9 straightforward application of the {PSLRA}, . . . provides no
10 occasion for comparing plaintiffs with each other on any basis
11 *other than* their financial stake in the case." Id. at 732
12 (emphasis added).

13 Next, the court "must . . . focus its attention on *that*
14 plaintiff and determine, based on the information he has provided
15 in his pleadings and declarations, whether he satisfied the
16 requirements of Rule 23(a), in particular those of 'typicality' and
17 'adequacy.'" Id. (footnote omitted) (emphasis in original). "If
18 the plaintiff with the largest financial stake in the controversy
19 provides information that satisfies these requirements, he becomes
20 the *presumptively most adequate* plaintiff." Id. (emphasis added).
21 On the other hand, "[i]f the plaintiff with the greatest financial
22 stake does not satisfy the Rule 23(a) criteria, the court must
23 repeat the inquiry, this time considering the plaintiff with the
24 next-largest financial stake, until it finds a plaintiff who is
25 both willing to serve and satisfied the requirements of Rule 23."
26 Id. "This process must be repeated sequentially until all
27 challenges have been exhausted." Id. at 731 (citation and footnote
28 omitted).

1 Because the motions for appointment as lead counsel were filed
2 practically simultaneously, the movants were unaware of the
3 financial losses of the others when they filed their respective
4 motions. For instance, initially Folksam Asset declared that
5 "[u]pon information and belief," it "has the 'largest financial
6 interest in the relief sought by the class' of any class member who
7 has appeared[.]" Doc. 26 at 9. In a similar vein, the Apollo
8 Institutional Investors Group indicated that "[a]s of the time of
9 the filing of this motion [January 3, 2007]," it "believes that it
10 has the largest financial interest of anyone in the relief sought
11 by the Class." Doc. 34 at 11.

12 A review of the pleadings and declarations undisputably shows,
13 however, that it is the Operating Engineers Fund, a large
14 institutional investor, which allegedly sustained the largest
15 losses -- \$12,334,428.51. Doc. 33 (Salcido Decl'n), exh. B
16 thereto. The next two putative plaintiffs run a distant second in
17 terms of claimed losses. Folksam Asset "acquired 95,214 shares of
18 Apollo common stock . . . during the . . . Class Period (27,697 net
19 shares), had net expenditures of over \$1.03 million thereon, and
20 suffered losses of over \$1.41 million." Doc. 26 at 9 (citing doc.
21 27 (Antonino Decl'n), exh. A thereto (doc. 27-2) at 2, ¶ 8; and
22 exh. C (doc. 27-4) thereto). Similarly, the Apollo Institutional
23 Investors Group "purchased . . . 97,177 shares of Apollo common
24 stock; . . . expended \$5,765,457 for their shares of [that] stock;
25 . . . retained 60,135 net retained shares; and . . . suffered
26 \$1,416,264 in losses related to their purchases." Doc. 34 at 8
27 (citing doc. 35 (Dahlstom Decl'n), exh. F thereto) (other citations
28 omitted).

1 The fourth movant, Teamsters Local sustained drastically lower
2 losses than the Operating Engineers Fund, and less than the other
3 two movants. The Local "expended approximately \$1,610,479 and
4 purchased 25,550 shares of Apollo [stock] during the Class
5 Period[,] sustaining "estimated" losses of "approximately
6 \$583,244." Doc. 21 at 2; and doc. 22 (Saltzman Decl'n), exh. C
7 thereto.

8 Consistent with the Reform Act which "provides in categorical
9 terms that the *only* basis on which a court may compare plaintiffs
10 competing to serve as lead is the size of their final stake in the
11 controversy[,]" this court easily finds that the Operating
12 Engineers Fund has the largest financial stake in this litigation.
13 See Cavanaugh, 306 F.3d at 732 (emphasis in original). Operating
14 Engineers Fund, therefore, is the "most adequate plaintiff." See
15 15 U.S.C. § 78u-4(a)(3)(B)(iii)(I). Thus, the court will next, as
16 it must, "focus its attention" on the Operating Engineers Fund to
17 see whether it satisfies the typicality and adequacy requirements
18 of Fed. R. Civ. P. 23. See Cavanaugh, 306 F.3d at 730 ("Once it
19 determines which plaintiff has the biggest stake, the court must
20 appoint that plaintiff as lead, unless it finds that he does not
21 satisfy the typicality or adequacy requirements.")

22 The court will limit its analysis under Rule 23 because "[a]
23 wide ranging analysis is not appropriate to determine whether [the
24 Operating Engineers Fund] has made a prima facie showing that [it]
25 satisfies the requirements of Rule 23[.]" See Tanne v. Autobytel,
26 Inc., 226 F.R.D. 659,666 (C.D. Cal. 2005). Indeed, examination of
27 the other two factors under Rule 23, numerosity and the existence
28 of common questions of law or fact, "is deferred until the lead

1 plaintiff moves for class certification[]" under that Rule.
2 Richardson, 2007 WL 1129344, at *4.

3 **b. Typicality**

4 "Rule 23(a)(3) requires that 'the claims or defenses of the
5 representative parties are typical of the claims or defenses of the
6 class.'" Dukes v. Wal-Mart, Inc., 474 F.3d 1214, 1232 (9th Cir.
7 2007) (quoting Fed. R. Civ. P. 23(a)(3)). Under that Rule's
8 "permissive standards, representative claims are 'typical' if they
9 are reasonably coextensive with those of absent class members; they
10 need not be substantially identical." Id. (internal quotation
11 marks and citation omitted). As the Ninth Circuit has recognized
12 on more than one occasion, "[s]ome degree of individuality is to be
13 expected in all cases, but that specificity does not necessarily
14 defeat typicality." Id. (citing Staton v. Boeing Co., 327 F.3d
15 938, 957 (9th Cir. 2003)). Thus, "[t]he test for typicality[]" as
16 the defined by the Ninth Circuit, "is whether other members have
17 the same or similar injury, whether the action is based on conduct
18 which is not unique to the named plaintiffs, and whether other
19 class members have been injured by the same conduct." Id.
20 (internal quotation marks and citations omitted).

21 That test is easily met here. The Operating Engineers Fund,
22 as with the other putative class members, purchased Apollo Group
23 stock during the Class Period. And, also just like the other
24 putative class members, the Operating Engineers Fund was adversely
25 affected by the allegedly false and misleading statements
26 defendants made so as to artificially inflate the value of the
27 Apollo Group's stock. Further, the Operating Engineers Fund, as
28 well as the other putative class members suffered financial losses

1 allegedly as a result of defendants' violations of the securities
2 laws.

3 c. Adequacy

4 Having found that the Operating Engineers Fund's claims are
5 typical of the class, the court will next briefly consider whether
6 that Fund can adequately "protect the interests of the class[]" in
7 accordance with Rule 23. The adequate representation element of
8 Rule 23 "requires: (1) that the proposed representative Plaintiffs
9 do not have conflicts of interest with the proposed class, and (2)
10 that Plaintiffs are represented by qualified and competent
11 counsel." Dukes, 474 F.3d at 1233 (citations omitted).

12 As with the typicality requirement, the adequacy requirement
13 is readily met here. There is no evidence that the Operating
14 Engineers Fund is in any way antagonistic to, or has a conflict
15 with, any putative member of the class. What is more, given the
16 sizeable financial losses (over \$12 million) which it allegedly
17 sustained, plainly the Operating Engineers Funds has a more than
18 "sufficient interest in the outcome of th[is] case to ensure
19 vigorous advocacy." See Ferrari, 225 F.R.D. at 607 (citation
20 omitted). Further, there is no doubt that in retaining Lerach
21 Coughlin as its lead counsel, the Operating Engineers Fund has
22 chosen "qualified and competent counsel." See In re Enron Corp.
23 Securities, 2006 WL 4381143, at *20 (S.D. Tex. 2006) (describing
24 Lerach Coughlin as a "firm . . . comprised of probably the most
25 prominent securities class action attorneys in the country[]").
26 Thus because the Operating Engineers Fund is the plaintiff with the
27 largest financial losses, and because it satisfies both the
28 typicality and adequacy requirements, it is "the presumptively most

1 adequate plaintiff[,]" and hence is "entitled to lead plaintiff
2 status[.]" See Cavanaugh, 306 F.3d at 730 (internal quotation marks
3 and footnote omitted) and 732.

4 3. Rebuttal

5 The third step under Cavanaugh is that a court must "give
6 other plaintiffs an opportunity to rebut the presumptive lead
7 plaintiff's showing that it satisfies Rule 23's typicality and
8 adequacy requirements." Cavanaugh, 306 F.3d at 730. The Cavanaugh
9 Court stressed the fact "[t]hat the presumption is rebuttable does
10 not mean that it may be set aside for any reason that the court may
11 deem sufficient." Id. at 729 n.2. "Rather, the statute provides
12 that the presumption 'may be rebutted *only upon proof . . . that*
13 *the presumptively most adequate plaintiff*' does not satisfy the
14 adequacy or typicality requirements of Rule 23." Id. (quoting 15
15 U.S.C. § 78u-4(a)(3)(B)(iii)(II)) (emphasis added). The record in
16 the present case is completely void of any such proof. Thus, after
17 engaging in the mandatory sequential statutory process, the court
18 is left with the firm conviction that the Operating Engineers Fund
19 is "the most capable of adequately representing the interests of
20 the class members." See 15 U.S.C. § 78u-4(a)(3)(B)(i).
21 Accordingly, the court grants that Fund's motion for appointment as
22 lead plaintiff under the PSLRA.

23 Before addressing the issue of lead counsel, the court is
24 compelled to address Folksam Asset's suggestion, in its Reply that
25 if the court is "concerned about this possible conflict" due to the
26 fact that Lerach Coughlin was formerly counsel in one of the
27 related stockholder's derivative actions, then it should appoint
28 Folksam Asset as "co-lead plaintiff and its proposed lead counsel

1 as co-lead counsel[.]” Doc. 54 at 5. Significantly, defendants
2 have not raised any such “concern;” nor does the court have one.
3 Thus, it declines Folksam Asset’s request that “at a minimum” it be
4 appointed co-lead plaintiff with the Operating Engineers Fund. See
5 id. In denying this request, the court adopts the sound reasoning
6 of the court in Tanne:

7 Most of the cases appointing co-lead plaintiffs
8 predate Cavanaugh, or are from jurisdictions
9 outside the Ninth Circuit. The rationales
10 they offer for the appointment of co-lead
11 plaintiffs, moreover, appear to be fundamentally
12 at odds with Cavanaugh’s interpretation of the PSLRA
13 and its outlining of the process to be used in
14 identifying a lead plaintiff. Additionally,
15 [Folksam Asset] has not shown that the appointment
16 of co-lead plaintiffs is preferable to the appointment
17 of a single lead plaintiff in this case.
18 Rather, the court concludes, a co-lead plaintiff
19 structure is unnecessary[.]

20 See Tanne, 226 F.R.D. at 673.

21 **II. Lead & Liaison Counsel**

22 Once a lead plaintiff is appointed, the Reform Act mandates
23 that plaintiff “shall, *subject to the approval of the court*, select
24 and retain counsel to represent the class.” 15 U.S.C. § 78u-
25 4(a)(3)(B)(v) (emphasis added). “A court may disturb the lead
26 plaintiff’s choice of counsel only if it appears necessary to
27 ‘protect the interests of the class.’” Tanne, 226 F.R.D. at 673
28 (citing 15 U.S.C. § 78u-(a)(3)(B)(iii)(II)(aa)). Here, there is no
need to “disturb” the Operating Engineer Fund’s choice of Lerach
Coughlin to serve as lead counsel and Buckley King to serve as
liaison counsel. A careful review of the resumes for each of those
firms (doc. 33 (Salcido Decl’n), exhs. D and E thereto), persuades
the court that both possess the requisite degree of experience and
qualifications to adequately represent the interests of the

1 putative class. Thus, the court approves the Operating Engineer
2 Fund's selection of Lerach Coughlin to serve as lead counsel and
3 the law firm of Buckley King to serve as liaison counsel, "but
4 cautions that this must not result in the duplication of any
5 expenses to the class."³ See Richardson, 2007 WL 1129344, at *6.

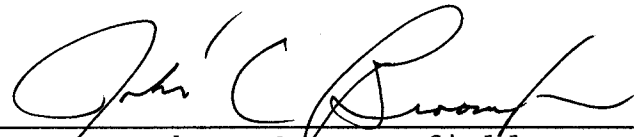
6 **Conclusion**

7 For the reasons set forth herein, IT IS ORDERED that the
8 motion by Pension Trust Fund for Operating Engineers for
9 appointment as lead plaintiff and for approval of the selection of
10 the law firm of Lerach Coughlin Stoia Geller Rudman & Robbins LLP
11 to serve as lead counsel, and Buckley King to serve as liaison
12 counsel (doc. 30) is GRANTED;

13 IT IS FURTHER ORDERED that the motions of the other movants,
14 Teamsters Local 617 Pension and Welfare Funds (doc. 21); Folksam
15 Asset Management (doc. 25); and the Apollo Institutional Investors
16 Group (doc. 34) are DENIED; and

17 IT IS FURTHER ORDERED that within thirty (30) days of the date
18 hereof, Lerach Coughlin, as lead counsel shall, negotiate and file
19 with the court a proposed pre-trial case management order.

20 DATED this 10th day of September, 2007.

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22 

23
24 Robert C. Broomfield
Senior United States District Judge

25 Copies to all counsel of record

26
27 ³ "The court approves the appointment of liaison counsel on the
28 understanding that its role will be limited to procedural advice and services
related to litigating in this district." Tanne, 226 F.R.D. at 673 (citation
omitted).