

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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IN RE WACHOVIA CORPORATION :  
ERISA LITIGATION :  
-----X  
THIS DOCUMENT RELATES TO: :  
All Actions :  
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MASTER FILE:  
08 Civ. 5320 (NRB)

**MEMORANDUM & ORDER**

On August 26, 2008, several plaintiffs and their attorney's filed motions to be appointed lead counsel. Specifically, plaintiffs Todd A. Wright, Denise A. Tuttle, and Jerry Kelley moved to appoint themselves Interim Lead Plaintiffs and Keller Rohrback L.L.P. ("Keller Rohrback") as Interim Lead Counsel, with Keller Rohrback's New York office serving as Liaison Counsel; Plaintiffs Robert M. Cominsky, Barbara Pegues, Sharon Creel, and Peter J. Zeman moved to appoint Iazard Nobel LLP. ("Iazard Nobel") as Interim Lead Counsel; Plaintiff Rose Hanson moved to appoint Spector Roseman & Kodroff, P.C. and Stember Feinstein Doyle & Payne, LLC ("Spector Roseman") as Interim Lead Counsel; and Jason Willard moved to appoint Wolf Haldenstein Adler Freeman & Herz LLP. ("Wolf Haldenstein") as Interim Class Counsel.

Federal Rule of Civil Procedure 23(g)(1)(C)(i) lists four factors that the Court must consider when appointing class counsel: "(1) the work counsel has done identifying or


investigating potential claims in the action; (2) counsel's experience in handling class actions, other complex litigation, and the types of claims asserted in the action; (3) counsel's knowledge of applicable law; and (4) the resources that counsel will commit to representing the class." All of the firms have done comparable amounts of work identifying potential claims and nothing indicates that any of the firms would not commit the necessary resources to effectively litigate this action. Further, all of the firms clearly have some relevant class action experience and knowledge of ERISA law. Thus, all of the proposed interim lead counsels ("the firms") are well qualified for the job.

However, Keller Rohrback presents the most compelling case for appointment as interim lead class counsel based on (1) its extensive experience handling ERISA class actions and (2) the unitary leadership structure it proposes. While Wolf Haldenstein is certainly an experienced firm in the securities class action arena, they did not present as extensive a history in the ERISA context as Keller Rohrback. Similarly, Spector Roseman presents a compelling case for its securities experience, but does not have the level of ERISA experience Keller Rohrback does. Further, their proposed structure, involving two lead counsels and another firm to serve as liason counsel, seems unduly complex and susceptible to duplicative

billing. Finally, while IZARD Nobel seems to have the most ERISA class action experience besides Keller Rohrback, they too propose a structure involving multiple law firms, which, for the reasons just stated, we find less desirable. Further, they themselves acknowledge that Keller Rohrback is as experienced as they are.

We have signed an Order filed today formally appointing Keller Rohrback as Interim Lead Counsel. Keller Rohrback and Proskauer Rose are directed to confer and submit to the Court a briefing schedule on defendants' transfer motion not exceeding sixty (60) days from the filing of the moving papers to the filing of the reply.

Dated: New York, New York  
December 24, 2008

  
NAOMI REICE BUCHWALD  
UNITED STATES DISTRICT JUDGE