

**IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS**

IN RE: NATIONAL COLLEGIATE  
ATHLETIC ASSOCIATION STUDENT-  
ATHLETE CONCUSSION INJURY  
LITIGATION-SINGLE SPORT/SINGLE  
SCHOOL (FOOTBALL)

MDL NO. 2492

Master Docket No. 16 C 8727

Hon. Judge John Z. Lee

Magistrate Judge David M. Weisman

This Document Relates to All Cases

**PLAINTIFFS' MOTION FOR APPOINTMENT  
OF STEERING COMMITTEE**

Pursuant to the Court's Order approving the formation of a Plaintiffs Steering Committee, (dkt. 90), Plaintiffs in the above-captioned matter, through Lead Counsel Jay Edelson and Sol Weiss, respectfully submit this proposal for the creation and appointment of a 10-member Plaintiffs Steering Committee ("PSC"), as outlined further below.

The PSC will be charged with, at the direction of Jay Edelson and Sol Weiss ("Co-lead Plaintiffs' Counsel"), performing or delegating all pre-trial tasks necessary for the efficient and orderly prosecution and disposition of the claims consolidated before the Court, in a manner that avoids duplication of effort and controls fees and expenses. The responsibilities of the proposed PSC may include, but are not limited to: conducting and coordinating all pre-trial discovery-related matters; acting as the spokesperson for all plaintiffs at pretrial proceedings; coordinating responses to the Court and other parties for all pretrial proceedings, including jointly submitting, responding to, and arguing all motions within the sphere of the PSC; examining witnesses and introducing evidence at hearings; negotiating stipulations with defendants, subject to the Court's approval; considering and negotiating settlement; maintaining all appropriate pretrial files;

preparing periodic status reports on the work of the PSC; and all other tasks necessary to accomplish its responsibilities.

Plaintiffs propose and support the appointment of the following attorneys (from the following firms) to the PSC:

- Jeff Raizner, Raizner Slania LLP (Committee Chair<sup>1</sup>)
- Rafey S. Balabanian, Edelson PC
- Larry E. Coben, Anapol Weiss
- Dwight Jefferson, Coats Rose PC
- Robert T. Dassow, Hovde Dassow & Deets LLC
- Anthony Tarricone, Kreindler & Kreindler LLP
- Janissa Strabuk, Tousley Brain Stephens PLLC
- Jill Manning, Steyer Lowenthal Boodrookas Alvarez & Smith LLP
- Gina Di Bella, Di Bella & Di Bella PC
- Eugene Egdorf, Shrader & Associates

The resumes and references for each of the applicants for the PSC are attached hereto as Exhibits A – J. As reflected in their respective submissions, the joint applicants are highly qualified to serve in the positions to which they seek appointment. Together, the members of the proposed PSC come from a variety of backgrounds and share significant and demonstrated experience in complex class actions, along with individual personal injury and mass tort litigation. The proposed PSC members have served in high-profile leadership positions as either lead or co-lead counsel or as members of plaintiffs' leadership committees in complex cases at both the state and federal level. And, importantly, each firm has the necessary resources and staff to carry out their leadership functions, and each proposed applicant is committed to work cooperatively and efficiently through the pendency of these matters.

Further, Plaintiffs propose the appointment of the PSC members for a period of one year.

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<sup>1</sup> The Committee Chair of the PSC will vote to break any deadlocks between Co-lead Plaintiffs' Counsel (should any arise). The Committee Chair may also, at the direction of Co-Lead Plaintiffs' Counsel, delegate and assign duties to other members of the PSC and call meetings of the PSC.

At the end of the one-year appointment period, Plaintiffs propose that the Court re-open applications for membership to the PSC (and, at that time, hope and expect that the members proposed for appointment here will re-apply). In line with other MDLs, the one-year appointment period will provide the Court with an opportunity to consider the role that each appointee has undertaken in the consolidated pretrial proceedings of this MDL, what work each appointee has performed, and whatever other information that the applicant can provide to assist the Court in deciding whether it is appropriate to continue the particular appointee in his or her leadership position. *See, e.g., In re: Pradaxa (Dabigatran Etexilate) Products Liability Litigation*, No. 12-md-2385, dkt. 36 at 3-4 (N.D. Ill. Sept. 27, 2012) (discussing one-year term appointment and re-application process for attorneys appointed to leadership team).

WHEREFORE, and for the reasons set forth above, Plaintiffs respectfully request that the Court appoint Jeff Raizner, Rafey S. Balabanian, Larry E. Coben, Dwight Jefferson, Robert T. Dassow, Anthony Tarricone, Janissa Strabuck, Jill Manning, Gina Di Bella, and Eugene Egdorf as members of the Plaintiffs' Steering Committee.

Respectfully submitted,

Date: March 22, 2017

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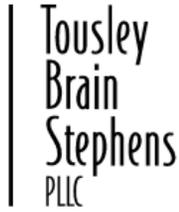
*Plaintiffs' Liaison Counsel*

**CERTIFICATE OF SERVICE**

I, Jay Edelson, an attorney, certify that on March 22, 2017, I served the above and foregoing by causing true and accurate copies of such paper to be filed and transmitted to all counsel of record via the Court's CM/ECF electronic filing system.

/s/ Jay Edelson \_\_\_\_\_

# Exhibit G



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**TOUSLEY BRAIN STEPHENS PLLC** has extensive experience in class action litigation and has both prosecuted and defended numerous multi-million dollar class actions, including the following cases in the areas of consumer protection, product liability, securities, and employment:

**Consumer**

- Appointed sole interim lead counsel in *In re Premera Blue Cross Custody Data Security Breach Litigation*, pending in the U.S. District Court for the District of Oregon. The lawsuit alleges that Premera allowed a massive breach of its data systems, permitting hackers access to the personal, medical, and financial information of more than 11 million Premera subscribers and employees.
- As sole class counsel in *Ikuseghan v. Multicare Health System*, U.S. District Court for the Western District of Washington, represented a nationwide class in resolving claims under the Telephone Consumer Protection Act (TCPA). In approving the settlement and fee award, the court noted that “class counsel obtained an extraordinarily good result for the class following an arm’s-length negotiation. Under the approved settlement, class members will receive as much as they would have received had they successfully litigated their claims under the TCPA. This recovery is significantly superior to other TCPA class action settlements that have been approved in this Circuit.” With individual class

member recoveries ranging from \$2,500 to over \$19,000 per approved claim, the settlement is believed to be the largest individual class member recovery in any TCPA case.

- As co-lead counsel in a consumer fraud class action, *Odom v. Microsoft, et al.*, Superior Court, King County, Washington, we successfully settled this action in 2010 after six years of hard-fought litigation. We alleged that Microsoft Corporation and Best Buy Stores, Inc. established MSN Internet accounts and trial subscriptions in the names of class members without their knowledge or approval and charged their credit or debit cards for this unauthorized, unused service. The case settled with each class member receiving a refund of up to \$75 for the MSN charges they paid.
- As co-lead counsel in *Nelson v. Appleway Chevrolet, Inc.*, 160 Wn.2d 173 (2007), we successfully represented purchasers of vehicles, parts, and services against certain automobile dealers in Washington who were illegally charging purchasers Business and Occupation tax. The class members received full refunds of all illegally collected taxes in addition to attorneys' fees and costs.
- As co-lead counsel in *Cole v. Wells Fargo Bank N.A.*, U.S. District Court, Western District of Washington, we successfully settled this case on behalf of a national class of consumers charged excessive fees on their accounts. Class members received full refunds of all excessive fees, together with interest, attorneys' fees and costs.
- As co-lead counsel in *Michael Spafford, Jr. v. Echostar Communications, Corporation*, U.S. District Court, Western District of Washington, we

successfully obtained an injunction on behalf of Washington consumers prohibiting defendant from using automatic dialing and announcing devices to sell satellite television subscriptions and equipment in violation of Washington law.

### **Product Liability**

- As co-lead counsel in the *In re Louisiana-Pacific Inner Seal Siding* class action, U.S. District Court, District of Oregon, we initially settled one of the largest product liability class action settlements in the United States for \$275 million. In November 1998, this settlement was augmented by additional commitments for a total of more than \$500 million, over \$240 million of which was paid to Washington residents.
- As co-lead counsel in the *Richison v. American Cemwood Corp.*, Superior Court, San Joaquin County, California, we settled this litigation, related to defective shingles, creating a guaranteed \$105-million settlement fund for a national class in the first phase of litigation. The second phase, against Cemwood's insurers, created an additional \$83-million settlement fund in 2003.
- As co-lead counsel in the *Behr Wood Sealants* settlement, Superior Court, San Joaquin County, California, we created a national settlement fund in 2003 of up to \$107.5 million, plus \$25 million in attorneys' fees.
- As co-lead counsel in a national product liability class action against Weyerhaeuser Company in San Francisco Superior Court, *Williams et al. v. Weyerhaeuser Company*, we settled the claims against Weyerhaeuser for approximately \$85 million.

- As co-lead counsel for the plaintiff class in *Clemans v. New Werner Co, et al.*, U.S. District Court, Western District of Washington, we successfully obtained free replacement ladders for a national class of approximately 300,000 consumers. The class alleged that Werner pull-down attic ladders were unreasonably dangerous because of defective hinges. The settlement was valued at \$48 million dollars.
- As co-counsel for a class representative health benefits trust in *Neurontin Marketing Sales Practices and Products Liability Litigation*, we represented a national class alleging that in an effort to boost profits, Pfizer, Inc. and Warner-Lambert Co. sold the drug Neurontin for uses for which it was neither approved by the U.S. Food and Drug Administration nor medically effective. Pfizer Inc. agreed to pay \$325 million to resolve the class's claim that Pfizer defrauded insurers and other healthcare benefit providers by its off label marketing of Neurontin.
- As co-lead counsel in *Delay v. Hurd Millwork Co.*, Superior Court, Spokane County, Washington, we represented a Western States class of individuals that purchased windows allegedly filled with inert gas. The case settled for \$5.3 million.
- As sole class counsel in *Barrett v. PABCO*, Superior Court, King County, Washington, a national roofing shingles product liability case, we settled the case on an unlimited claims-made basis in 2006. That settlement more than doubled the value of compensation available to homeowners under a Washington State Attorney General Consent Decree, and opened claims to every qualified

homeowner in the nation, including those who were not original purchasers of the roofing product.

- As co-lead counsel in *Grays Harbor Christian School v. Carrier Corporation*, U.S. District Court, Western District of Washington, we successfully represented national consumers to whom Carrier allegedly sold defective high efficiency furnaces. The case settled on a national and international basis when Carrier agreed to compensate consumers for past failures and fix the alleged defect for free in the future. Three million consumers were covered under the settlement, which was valued at more than \$300 million.
- As co-lead counsel in *Zwicker v. General Motors, Inc.*, U.S. District Court, Western District of Washington, we represented more than four million consumers who purchased vehicles with defective speedometers. The court granted final settlement approval, which entitles most class members to have their speedometers fixed for free.
- As co-lead counsel in *Splater et al. v. Thermal Ease Hydronic Systems, Inc. et al.*, Superior Court, King County, Washington, we represented a class of Washington consumers with defective tubing in their homes and obtained a seven-figure settlement for our clients.
- As class counsel in *Stanley and Betty Pelletz v. Weyerhaeuser Company et al.*, U.S. District Court, Western District of Washington, we represented a class of consumers who alleged that their ChoiceDek decking was defective because it developed black and gray mold spots throughout the decking and railing. The settlement allows class members a free deck cleaning along with application of a

mold inhibitor and deck replacement or a full refund if the cleaning does not work.

- As co-lead counsel in *Ross, et al. v. Trex Company, Inc.*, U.S. District Court, Northern District of California, we represented a national class of building owners with Trex decking products that delaminated, flaked and crumbled. Allegations related to that defect settled with class members receiving replacement product or cash.
- As class counsel in *Mahan v. Trex Company, Inc.*, U.S. District Court, Northern District of California, we represented a national class of building owners with Trex decking products that grew mold and mildew internally. The settlement provided three tiers of cash and product relief to affected homeowners.
- As co-lead counsel in *Carideo v. Dell*, U.S. District Court, Western District of Washington, we represented a class of Dell computer owners whose laptop computers overheated. The case settled with class members receiving partial reimbursement for the cost of their laptop.
- Appointed co-lead counsel in the MDL proceedings against Monsanto Company related to the release of Round-up resistant wheat. We successfully obtained a settlement for soft white wheat farmers in the Pacific Northwest related to the May 2013 discovery of genetically-modified wheat on an Eastern Oregon farm, which resulted in market disruptions to the exports of soft white wheat. Monsanto agreed to pay \$2.5 million into a settlement fund for farmers and wheat growers in Washington, Oregon, and Idaho.

## Securities

- As sole class counsel in *Johnson v. Amgen Boulder, Inc.*, we represented a national class that invested approximately \$50 million with the world's largest biotechnology company to fund the development of a genetically engineered molecule. That case settled for payments totaling \$82 million.
- As sole class counsel in *Trimble et al. v. Holmes Harbor Sewer District et al.*, Superior Court, Island County, Washington, we represented a national class of bondholders. We achieved a 100% recovery for investors who had purchased unlawfully issued bonds through several broker dealers.
- As sole class counsel in *Wolf et al. v. Asiamerica et al.*, Superior Court, King County, Washington, we represented a national class in a securities fraud action against an international leveraged buy-out corporation. The case settled for approximately 120% of the class's investment, plus attorneys' fees and costs.
- As liaison counsel in *In re Washington Mutual Mortgage-Backed Securities* Litigation, U.S. District Court, Western District of Washington, we represented a class of purchasers of mortgage-backed certificates issued and underwritten by Washington Mutual and related entities. The named Plaintiffs alleged that the defendants violated federal securities laws by misrepresenting the underwriting procedures used to originate the mortgage loan collateral. The case settled for \$26 million.

## **Employment**

- As co-lead counsel in *Barnett et al. v. Wal-Mart Stores, Inc.*, Superior Court, King County, Washington, we represented a class of more than 88,000 current and former employees who worked in Wal-Mart's Washington stores. The case settled after almost eight years of litigation for up to \$35 million.
- As co-lead counsel in *Kirkpatrick v. Ironwood Communications, Inc.*, U.S. District Court, Western District of Washington, we represented hourly employees in Washington and Oregon, who alleged the company failed to pay them for all hours worked, failed to provide them rest and meal breaks, and made unlawful deductions to their paychecks. The case settled for confidential sums.
- As co-lead counsel in *Godfrey v. Chelan County Public Utility District*, U.S. District Court, Eastern District of Washington, we represented a class of utility employees who alleged that they performed work for the Utility District without being paid for their work. The case settled with the Utility District compensating the employees and paying attorneys' fees and costs.
- As co-lead counsel in *McGinnity v. AutoNation, Inc.*, a private, class arbitration, we obtained a \$2.34 million arbitration award on behalf of a class of AutoNation car dealership workers who were unlawfully denied their earned paid vacation benefits.
- As class Counsel in *Morden v. T-Mobile USA, Inc.*, U.S. District Court, Western District of Washington, we obtained certification of a nationwide collective action of current and former employees of a major wireless telecommunication

carrier, which had been allegedly misclassified as exempt from wage and hour laws. The parties reached a \$2 million settlement of the case.

**JANISSA A. STRABUK** is the Managing Member of TOUSLEY BRAIN STEPHENS PLLC. Ms. Strabuk's practice focuses on complex civil litigation, including class actions, securities, shareholder, and fiduciary duty litigation. Ms. Strabuk has prosecuted class actions in both state and federal courts litigating claims of securities fraud, trespass, nuisance, and consumer protection violations. In addition, she has significant trial experience with commercial cases involving fraud, professional malpractice, breach of contract, and violations of consumer protection laws.

Before joining Tousley Brain Stephens, Ms. Strabuk was a partner and associate at Riddell Williams, P.S., where she practiced toxic tort and complex commercial litigation for seven years. Before entering private practice, Ms. Strabuk was a law clerk to the Honorable Eugene A. Wright, Ninth Circuit Court of Appeals, and a television news reporter and anchor.

Ms. Strabuk received her J.D., *magna cum laude* and Order of the Coif, from the Sandra Day O'Connor College of Law, her M.S.J., with honors, from Northwestern University, and her B.A., *cum laude*, from Georgetown University. She is a Fellow of the Litigation Counsel of America, has been awarded an "AV" rating in Martindale Hubbell® by her peers, a rating denoting the highest legal ability and ethical standards, and is listed in the Martindale-Hubbell® Bar Register of Preeminent Women Lawyers™.