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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

L'OTTAVO RISTORANTE, DANIEL
HARVEY and SYLVIA HIE, on behalf
of themselves and all others
similarly situated,

No. 2:09-cv-1945-MCE-EFB

Plaintiffs,

v.

ORDER

INGOMAR PACKING COMPANY,
LOS GATOS TOMATO PRODUCTS,
INTRAMARK USA, INC., and
RANDAL LEE RAHAL,

Defendants.

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This is a class action complaint instituted on behalf of
indirect purchasers of processed tomato products, who allege that
Defendants improperly engaged in price-fixing and other anti-
competitive conduct in violation of antitrust laws.

1 Presently before the Court is Plaintiffs' Motion to Appoint Reese
2 Richman, LLP, and Milberg, LLP, as Interim Co-Lead Counsel for
3 the Indirect Purchaser Class, pursuant to the provisions of
4 Federal Rule of Civil Procedure 23(g).¹ A Statement of Non-
5 Opposition was filed on behalf of both Defendants Ingomar Packing
6 Company and Los Gatos Tomato Products. No opposition has been
7 submitted to Plaintiffs' Motion on behalf of the remaining
8 Defendants to this matter.

9 Under Rule 23(g)(3), the Court may designate interim class
10 counsel to represent the interests of the alleged class in
11 initial proceedings, even before determining whether to certify
12 the class as a whole. Rule 23(g)(1) provides the following
13 guidelines for the appointment of class counsel:

14
15 "In appointing class counsel, the court:

16 (A) must consider:

- 17 (i) the work counsel has done in identifying or
18 investigating potential claims in the action;
- 19 (ii) counsel's experience in handling class
20 actions, other complex litigation, and the
21 types of claims asserted in the action;
- 22 (iii) counsel's knowledge of the applicable law;
23 and
- 24 (iv) the resources that counsel will commit to
25 representing the class;

26 (B) may consider any other matter pertinent to counsel's
27 ability to fairly and adequately represent the
28 interests of the class..."

29 Fed. R. Civ. P. 23(g)(a)(A), (B).

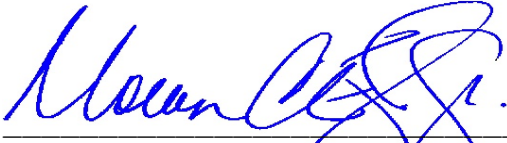
¹ All further references to "Rule" or "Rules" are to the
Federal Rules of Civil Procedure unless otherwise noted.

1 The most common means of selecting class counsel is the
2 so-called "private ordering" approach, whereby involved counsel
3 jointly come to a representational consensus and submit their
4 recommendation in that regard to the court for approval. See
5 Manual for Complex Litigation (Fourth) § 21.272, p. 279 (Fed.
6 Jud. Ctr. 2004).

7 Here, counsel for the Plaintiff class, Reese Richman, LLP,
8 and Milberg, LLP, have agreed to serve as interim co-lead
9 counsel. According to the papers, both firms specialize in class
10 actions in the antitrust field, and both have partners with
11 extensive litigation experience in that field. Both appear well
12 established and capable of providing quality representation to
13 Plaintiffs in this matter. Plaintiffs' Motion for Appointment of
14 Interim Class Counsel (Docket No. 24) is accordingly GRANTED.²
15 The hearing on Plaintiffs' Motion, set for November 12, 2009, is
16 vacated.

17 IT IS SO ORDERED.

18 Dated: November 6, 2009

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20 
21 MORRISON C. ENGLAND, JR.
22 UNITED STATES DISTRICT JUDGE
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27 ² Because oral argument will not be of material assistance,
28 the Court orders this matter submitted on the briefing. E.D.
Local Rule 78-230(h).