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United States District Court
For the Northern District of California

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

IL FORNAIO (AMERICA) CORPORATION,
OLIVETO PARTNERS, LTD., and THE FAMOUS
ENTERPRISE FISH COMPANY OF SANTA
MONICA, INC., on behalf of themselves and all
others similarly situated,

Nos. C 13-05197 WHA;
C 13-05331 WHA

Plaintiffs,

v.

LAZZARI FUEL COMPANY, LLC,
CALIFORNIA CHARCOAL AND FIREWOOD,
INC., and CHEF'S CHOICE MESQUITE
CHARCOAL,

**ORDER TO SHOW CAUSE
REGARDING CONSOLIDATION**

Defendants.

DARBAR CUISINE, INC., on behalf of itself and all
others similarly situated,

Plaintiff,

v.

CHEF'S CHOICE MESQUITE CHARCOAL,
LAZZARI FUEL COMPANY LLC,
CALIFORNIA CHARCOAL AND FIREWOOD,
INC., and WILLIAM W. LORD,

Defendants.

In this putative antitrust class action involving mesquite charcoal, plaintiffs move for the appointment of interim lead counsel in two related class action proceedings. In preparation for

1 the hearing on the motion and the case management conference scheduled for February 27, this
2 order requests a joint response by **FEBRUARY 6**.

3 In November 2013, plaintiffs filed a 23-page class action complaint alleging “at least a
4 ten-year conspiracy to fix, raise and/or stabilize prizes, and allocate the market and customers in
5 the United States for Mesquite Lump Charcoal” in violation of the Sherman Antitrust Act,
6 15 U.S.C. 1, by three defendants (Compl. ¶¶ 1, 85). *Il Fornaio (America) Corp., et al. v. Lazzari*
7 *Fuel Company, LLC*, No. 3:13-cv-05197-WHA (N.D. Cal. Nov. 7, 2013). The complaint was
8 filed by proposed counsel (1) Pritzker | Law and (2) Pearson, Simon & Warshaw, LLP. The
9 following class is proposed:

10 All persons in the United States who purchased Mesquite Lump
11 Charcoal directly from any Defendant, and/or their subsidiaries
12 and co-conspirators, during the period from and including January
13 2000 through at least September 30, 2011 (the ‘Class Period’).

13 (*Il Fornaio*, Compl. ¶ 8).

14 Eight days later, Darbar Cuisine, Inc. filed a 9-page class action complaint against the
15 same three defendants and individual William W. Lord, the owner of defendant Chef’s Choice
16 Mesquite Charcoal, alleging antitrust violations. *Darbar Cuisine, Inc. v. Chef’s Choice Mesquite*
17 *Charcoal, et al.*, No. 3:13-cv-05331-WHA (N.D. Cal. Nov. 15, 2013). The complaint was filed
18 by different proposed counsel, Saveri & Saveri, Inc. and Bonsignore & Brewer. The following
19 class is proposed:

20 All individuals and entities, who, during the period from
21 approximately January 1, 2000 through at least September 30,
22 2010 (the ‘Class Period’), purchased mesquite charcoal in the
23 United States directly from the Defendants, their subsidiaries or
24 their co-conspirator. Excluded from the Class are Defendants and
25 their parents, subsidiaries, affiliates, all governmental entities, and
26 co-conspirators.

24 (*Darbar*, Compl. ¶ 13).

25 A November 27 order by Magistrate Judge Jacqueline Scott Corley related the *Il Fornaio*
26 and *Darbar* actions (*Il Fornaio*, Dkt. No. 14). On January 10, 2014, both actions were assigned
27 to the undersigned judge.
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On January 22, plaintiffs filed a motion to appoint Elizabeth C. Pritzker of Pritzker | Law as interim lead counsel for both the *Il Fornaio* and *Darbar* actions (*Il Fornaio*, Dkt. No. 33). Plaintiff filed a notice of filing in the *Darbar* action (appending the motion and supporting documents). Counsel’s declaration indicates that plaintiffs’ counsel in *Il Fornaio* and plaintiff’s counsel in *Darbar* “were unable to reach agreement” on selection of interim lead class counsel and “Darbar’s counsel have represented that they will oppose any interim lead counsel proposal that does not include one or both of the firms listed on the *Darbar* complaint in the proposed appointment” (Pritzker Decl. ¶ 21).

By **FEBRUARY 6**, the parties, including Darbar Cuisine, Inc., shall file a joint statement (not to exceed **EIGHT PAGES**) regarding consolidation of the *Il Fornaio* and *Darbar* actions pursuant to FRCP 42(a) for pre-trial and/or trial purposes.

IT IS SO ORDERED.

Dated: January 27, 2014.



WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE