

United States District Court
For the Northern District of California

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

NORTHSTAR FINANCIAL ADVISORS, INC.,
on Behalf of Itself and All Others Similarly
Situated,

Plaintiff,

v.

SCHWAB INVESTMENTS; and MARIANN
BYERWALTER, DONALD F. DORWARD,
WILLIAM A. HASLER, ROBERT G.
HOLMES, GERALD B. SMITH, DONALD R.
STEPHENS, MICHAEL W. WILSEY,
CHARLES R. SCHWAB, RANDALL W.
MERK, JOSEPH H. WENDER and JOHN F.
COGAN as TRUSTEES OF SCHWAB
INVESTMENTS; and CHARLES SCHWAB
INVESTMENT MANAGEMENT, INC.,

Defendants.

Case No. 08-CV-04119 LHK

ORDER DENYING MOTIONS TO
CONSOLIDATE AND TO APPOINT
LEAD COUNSEL

On October 11, 2010, defendants filed a Motion to Consolidate this matter with a related case, *Smit v. Charles Schwab & Co., Inc.*, No. 10-cv-03971-LHK. Plaintiff Northstar filed a statement saying it did not oppose consolidation, but urged the Court to wait to decide this issue until after then-pending Motions to Dismiss had been decided in both the *Northstar* and *Smit* matters.

1 On November 19, 2010, plaintiff Northstar filed a Motion to be Appointed Interim Lead
2 Class and Liason Counsel regarding both this matter and the *Smit* matter. Attorneys for Plaintiffs
3 in the *Smit* matter opposed this Motion; defendants did not oppose.

4 At the January 13, 2011 hearing on the Motion to Dismiss in Northstar, counsel for the
5 *Northstar* plaintiffs, the *Smit* plaintiffs, and defendants in both actions agreed that these Motions
6 should be denied without prejudice, pending resolution of the Motions to Dismiss in both matters.
7 The Court has now dismissed the claims in both matters, with leave to amend certain claims. The
8 Court therefore finds that the Motion to Consolidate and the Motion to Appoint Interim Lead and
9 Liason Class Counsel are moot. These Motions are DENIED without prejudice to the parties
10 raising these issues again when and if amended complaints are filed in the two actions.

11 **IT IS SO ORDERED.**

12 Dated: March 9, 2011

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15 LUCY H. KOH
16 United States District Judge