

United States District Court  
For the Northern District of California

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\*E-Filed 2/3/11\*

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

ROBERT CHACANACA, et al.,

No. C 10-0502 RS

Plaintiffs,

v.

**ORDER DENYING PLAINTIFF'S  
MOTION TO CONSOLIDATE AND  
APPOINT INTERIM CLASS  
COUNSEL WITHOUT PREJUDICE**

THE QUAKER OATS COMPANY,

Defendant.

I. INTRODUCTION

Plaintiff Victor Guttman moves to consolidate two new civil, putative class action matters with the underlying case, *Chacanaca, et al. v. Quaker Oats Company*, C 10-0502 RS (“the *Chacanaca* matter”). Guttman also moves to appoint his counsel, the Weston Firm, as interim class counsel. Such an appointment would exclude counsel to the second plaintiff in the *Chacanaca* matter: the Beck and Lee Firm, who represents plaintiff Chacanaca. The two new cases were filed in this District, subsequent to the filing of the *Chacanaca* matter, and involve allegations against the same defendant: the Quaker Oats Company (“Quaker”). The cases are captioned, respectively, *Yrene v. Quaker Oats Company*, C 10-5389 RS (“the *Yrene* matter”) and *Yumal, et al. v. Quaker Oats Company*, C 10-5538 RS (“the *Yumal* matter”).

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ORDER



1 prejudice to the non-moving party; (2) hardship and inequity to the moving party if the action is not  
2 stayed; (3) judicial resources saved by avoiding duplicative litigation if the cases are in fact  
3 consolidated by the MDL panel. *See, e.g., Rivers v. Walt Disney Co.*, 980 F. Supp. 1358, 1360  
4 (C.D. Cal. 1997).

5 III. DISCUSSION

6 In light of the motion pending before the MDL panel, it would be premature to grant either  
7 Guttman's motion for consolidation or his motion to appoint interim class counsel. The parties  
8 indicated at oral argument, first, that briefing is due before the panel on February 4, 2011, and,  
9 second, that a hearing before the panel will be scheduled shortly thereafter. The panel may decide  
10 that these five cases are suitable for treatment under the MDL umbrella or it may not; either way, its  
11 determination will significantly aid this Court in this or any future consolidation determination.  
12 Particularly as it is possible that the two plaintiff sets in *Pelobello* and *Askin* might be subject to a  
13 future consolidation motion, it also would be premature to appoint interim class counsel.  
14 Accordingly, Guttman's motion shall be denied without prejudice in its entirety.

15 Additionally, no plaintiff has persuasively demonstrated that he or she shall be greatly  
16 prejudiced by a temporary stay. Moreover, such a stay promises to preserve resources (of both the  
17 defendant as well as this Court). All proceedings—with the exception of the limited discovery  
18 discussed at the motion hearing, including the entry of a protective order—shall be stayed in the  
19 *Chacanaca*, *Yrene*, and *Yumal* actions pending a decision by the MDL panel as to the status of this  
20 case. All hearings scheduled prior to that time are accordingly vacated. The parties are instructed to  
21 notify the Court in writing when the MDL panel has reached a decision.

22  
23 IT IS SO ORDERED.

24  
25 Dated: 2/3/11

26   
27 RICHARD SEEBORG  
28 UNITED STATES DISTRICT JUDGE

No. C 10-0502 RS  
ORDER