

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Magistrate Judge Boyd N. Boland

Civil Action No. 09-cv-02545-WYD-BNB
(Consolidated with Civil Action No. 10-cv-00544)

DANIEL SMITH, on behalf of himself and all others similarly situated,

Plaintiff,

v.

GAIAM, INC.,

Defendant.

ORDER

This matter arises on **Plaintiffs' Unopposed Motion to . . . Appoint Interim Co-Lead Counsel and Liaison Counsel** [Doc. # 41, filed 3/31/2010] (the "Motion re Interim Class Counsel").¹ I heard argument concerning the Motion re Interim Class Counsel at a status conference held this afternoon. The Motion re Interim Class Counsel is GRANTED.

Rule 23(g)(3), Fed. R. Civ. P., permits a court to "designate interim counsel to act on behalf of a putative class before determining whether to certify the action as a class action." As stated in In re Municipal Derivatives Antitrust Litigation, 252 F.R.D. 184, 186 (S.D.N.Y. 2008):

When appointing interim class counsel, courts generally look to the same factors used in determining the adequacy of class counsel under Rule 23(g)(1)(A). Rule 23(g)(1)(A) provides that the Court must consider:

- (i) the work counsel has done in identifying or investigating

¹The Motion also sought consolidation of the case, which was granted by the district judge in his minute order [Doc. # 38] entered March 22, 2010, granting the parties leave to file a "Consolidated Amended Complaint."

potential claims in the action; (ii) counsel's experience in handling class actions, other complex litigation, and the types of claims asserted in the action; (iii) counsel's knowledge of the applicable law; and (iv) the resources counsel will commit to representing the class.

Two law firms seek appointment as interim co-lead counsel--Chimicles & Tikellis LLP and Gergosian & Gralewski LLP. In addition, Charles Lilly & Associates, P.C., seeks appointment as liaison counsel. The qualifications of the three firms under the four part test articulated in In re Municipal Derivatives Antitrust Litigation are specified in the Memorandum of Law In Support of Plaintiffs' Unopposed Motion to . . . Appoint Interim Co-Lead Counsel and Liaison Counsel [Doc. # 42] (the "Memorandum"). Based on the information and materials provided in the Memorandum, I find that the firms are qualified for appointment as requested.

IT IS ORDERED that the Motion re Interim Class Counsel [Doc. # 41] is GRANTED. Chimicles & Tikellis LLP and Gergosian & Gralewski LLP are appointed as interim co-lead counsel and Charles Lilly & Associates, P.C., is appointed as interim liaison counsel.

Dated May 3, 2010.

BY THE COURT:

s/ Boyd N. Boland
United States Magistrate Judge