

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TENNESSEE  
AT KNOXVILLE

LEWIS COSBY, *on behalf of himself and all* )  
*others similarly situated,* )  
 )  
Plaintiff, )  
 )  
 )  
v. )  
 )  
KPMG, LLP, and SCOTT M. BORUFF, )  
 )  
Defendants. )

No. 3:16-CV-121-TAV-CCS

**ORDER**

This case is before the undersigned pursuant to 28 U.S.C. § 636, the Rules of this Court, and Standing Order 13-02.

Now before the Court is a Motion for Appointment of Cohen Milstein Sellers & Toll PLLC as Co-Lead Counsel for the Plaintiffs [Doc. 40]. Specifically, the Plaintiffs request that the Court appoint Cohen Milstein Sellers & Toll, PLLC (“Cohen Milstein”) to serve with previously-appointed Gordon Ball, PLLC as Co-Lead Counsel for the Plaintiffs in this case. For grounds, the Plaintiffs assert that Gordon Ball, PLLC commenced this action on behalf of purchasers of Miller Energy common shares in March 2016. Subsequently, on October 22, 2016, Attorney Ball underwent heart transplant surgery at Vanderbilt University in Nashville, and thereafter, began a lengthy period of post-surgical treatment, recovery, and convalescence. On April 5, 2017, the Plaintiffs moved the Court for additional time to file an Amended Complaint due to Attorney Ball’s serious medical setbacks. At that time, the Plaintiff state that they informed the Court of their intent to associate the law firm of Cohen Milstein to join the case as co-counsel for the Plaintiffs. Further, in support of the instant Motion, the Plaintiffs have attached the Declaration of Lewis

Cosby [Doc. 40-1], the Declaration of Kenneth Martin [Doc. 40-2], and the Declaration of Steven J. Toll [Doc. 40-3], the Managing Partner of Cohen Milstein.

The Court notes that no party has responded in opposition to the Motion, and the time for doing so has expired. *See* E.D. Tenn. L.R. 7.2 (“Failure to respond to a motion may be deemed a waiver of any opposition to the relief sought.”). Further, the Court has reviewed the Motion, along with the Declarations, and finds good cause to grant the request. Accordingly, the Motion for Appointment of Cohen Milstein Sellers & Toll PLLC as Co-Lead Counsel for the Plaintiffs [**Doc. 40**] is hereby **GRANTED**. The law firm of Cohen Milstein Sellers & Toll PLLC **SHALL** serve as co-counsel in this matter.

**IT IS SO ORDERED.**

ENTER:

s/ C. Clifford Shirley, Jr.  
United States Magistrate Judge