

United States District Court  
Northern District of California

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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

IN RE: APPLE INC. DEVICE  
PERFORAMNCE LITIGATION

Case No. 18-md-02827-EJD

**ORDER CONSOLIDATING RELATED  
ACTIONS AND APPOINTING  
INTERIM CO-LEAD PLAINTIFFS’  
COUNSEL AND EXECUTIVE AND  
STEERING COMMITTEES**

Re: Dkt. Nos. 30, 35, 38

In Case Management Order No. 1, the Court invited counsel for the various plaintiffs in this multidistrict litigation (“MDL”) to file motions to serve as interim lead counsel. Dkt. No. 21. On May 3, 2018, the Court received three separate motions to serve as interim lead counsel in this action. Dkt. Nos. 30, 35, 38. The Court received an opposition to one of these motions from Defendant Apple Inc. (“Apple”) on May 8, 2018. Dkt. No. 78. On May 9, 2018, Dina Micheletti of Fazio Micheletti LLP withdrew as a candidate for the Steering Committee. Dkt. No. 79.

Having reviewed all of these submissions, and having heard the arguments at the May 10, 2018 hearing, the Court hereby GRANTS in part and DENIES in part the motion to consolidate related actions and serve as interim lead counsel filed by Joseph Cotchett of Cotchett, Pitre & McCarthy LLP and Laurence King of Kaplan Fox & Kilsheimer LLP. Dkt. No. 35.

**I. CONSOLIDATION**

The district court may consolidate actions involving common questions of law and fact. Fed. R. Civ. P. 42(a)(2). In exercising the broad discretion to order consolidation, the court

1 “weighs the saving of time and effort [that] consolidation would produce against any  
 2 inconvenience, delay, or expense that it would cause.” Huene v. United States, 743 F.2d 703, 704  
 3 (9th Cir. 1984). Consolidation may occur upon motion by a party or sua sponte. See 9A Charles  
 4 Alan Wright et al., Federal Practice and Procedure § 2383 (3d ed. 2018).

5 The Court finds that each case presents substantially similar factual and legal issues.  
 6 Furthermore, the actions are in the same procedural posture, and discovery issues relating to each  
 7 action will be parallel. There is no basis to find that consolidation would cause inconvenience,  
 8 delay, or expense, especially where all parties agree with the consolidation request. Accordingly,  
 9 consolidation is appropriate, and the motions to consolidate the actions for pretrial purposes  
 10 pursuant to Rule 42(a)(2) are GRANTED.<sup>1</sup>

## 11 **II. APPOINTMENT OF INTERIM LEAD COUNSEL**

12 This Order is intended to create a leadership structure for plaintiffs’ counsel in order to  
 13 organize, simplify, and streamline the handling of these matters on behalf of all plaintiffs,  
 14 consistent with the fair administration of justice. For the reasons discussed below, the Court  
 15 grants in part and denies in part the motion to serve as interim lead counsel filed by Mr. Cotchett  
 16 and Mr. King. Dkt. No. 35. Having done so, the Court denies the two other pending motions to  
 17 serve as interim lead counsel. Dkt. Nos. 30, 38.

18 The Court begins with a few preliminary observations. At first blush, the structure  
 19 proposed by Mr. Cotchett and Mr. King may seem larger than necessary. However, after engaging  
 20 in probing discussion with counsel at the May 10, 2018 hearing, the Court is persuaded to adopt  
 21 the proposed structure based on counsels’ representations that it will be in the best interests of the  
 22 plaintiffs and provide the requisite cost savings. In particular, the proposal of Mr. Cotchett and  
 23 Mr. King strives to eliminate duplication by assigning discrete tasks to members of the Executive  
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25 <sup>1</sup> For the sake of clarity, the Court notes that consolidation includes the actions initiated by pro se  
 26 litigants. Going forward, “designated counsel should seek consensus among the attorneys (and  
 27 any unrepresented parties) when making decisions that may have a critical impact on the  
 28 litigation.” Manual for Complex Litigation (Fourth) § 10.222 (2004).

1 Committee and charging one attorney—Mark Dearman of Robbins Geller Rudman & Dowd  
2 LLP—with overseeing the Executive Committee’s work and managing time records. The Court  
3 will also actively monitor the work of the Executive and Steering Committees by holding regular  
4 case management conferences to inquire into all pending and completed tasks of each  
5 subcommittee and subcommittee member.

6 The Court further believes that this structure respects the notion of starting with a small  
7 team and growing as needed. The proposed number of attorneys is warranted in light of the  
8 projected size of the case, including the potential number of class members. Efficiency will be  
9 promoted by putting the entire team in place and defining each member’s role at the outset of the  
10 case. Moreover, this structure includes a diversity of viewpoints that could prove instrumental in  
11 effectuating the best outcome for the plaintiffs. Mr. Cotchett and Mr. King have demonstrated an  
12 ability to cooperate with a range of different interests that span across law firms, practice groups,  
13 geography, and gender and introduce smaller firms into the litigation experience. Their pledge to  
14 communicate transparently and devise a cohesive working group is admirable and will prove a  
15 valuable resource in the course of the litigation.

16 Given Mr. Cotchett and Mr. King’s assurances that the proposed structure is designed to  
17 secure an efficient and beneficial result for the plaintiffs, as well as Apple’s commitment to reach  
18 a speedy resolution of this case, the Court approves the proposed Interim Co-Lead Counsel and  
19 Executive Committee structure. The Court notes that some of the proposed subcommittees (such  
20 as State Court & Regulatory Liaison, International Liaison, Damages/Settlement, and Trial Prep)  
21 are forward-thinking but may not require immediate implementation. As described, the Court  
22 encourages Interim Co-Lead Counsel and the Executive Committee to remain committed to  
23 efficiency. The Court also approves identification of the Steering Committee members but  
24 requests more information about their role—e.g., the tasks to be performed and the function within  
25 the broader structure. The Court reserves the right to modify the structure at any time.

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**A. Co-Lead Counsel**

The Court has considered the chief criteria that interim lead plaintiffs’ counsel should possess: (1) performance of work in identifying and investigating potential claims in this action; (2) knowledge and experience in handling complex litigation, including class actions; (3) knowledge of the applicable law; and (4) access to sufficient resources to prosecute the litigation in a timely manner. Fed. R. Civ. P. 23(g)(1)(A), (3). The Court has also considered counsel’s willingness and ability to commit to a time-consuming process and to work cooperatively with others. See Fed. R. Civ. P. 23(g)(1)(B). Based on these factors, the Court hereby APPOINTS Joseph Cotchett of Cotchett, Pitre & McCarthy LLP and Laurence King of Kaplan Fox & Kilsheimer LLP as Interim Co-Lead Counsel in this action. The Court finds that these individuals and their firms have extensive knowledge of and experience in prosecuting complex litigation and class actions, are both willing and able to commit to a time-consuming process of litigating this case, have shown the ability to work cooperatively with others by garnering the support of a great number of colleagues and fellow counsel in this MDL, and have access to sufficient resources to prosecute this litigation in a timely manner.

**B. Plaintiffs’ Executive Committee**

Having reviewed motions and supporting firm resumes, and finding that the proposed committees will advance judicial interests of efficiency and protect the interests of the proposed Class, the Court hereby appoints the following individuals to the Plaintiffs’ Executive Committee:

Mark J. Dearman <b>ROBBINS GELLER RUDMAN &amp; DOWD LLP</b> 120 East Palmetto Park Road, Suite 500 Boca Raton, FL 33432 (561) 750-3000 Mdearman@rgrdlaw.com	Eli Greenstein <b>KESSLER TOPAZ METZLER CHECK LLP</b> 1 Sansome Street, Suite 1850 San Francisco, CA. 94104 (415) 400-3000 egreenstein@ktmc.com
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1 2 3 4	Derek Howard <b>DEREK G. HOWARD LAW FIRM</b> 42 Miller Ave Mill Valley, CA. 94941 (415) 432-7192 derek@derekhowardlaw.com	Kyle McGee <b>GRANT &amp; EISENHOFER P.A.</b> 485 Lexington Avenue, 29 <sup>th</sup> Floor New York, NY. 10017 (646) 722-8505 jeisenhofer@gelaw.com
5 6 7	Kenneth Johnston <b>JOHNSTON PRATT PLLC</b> 1717 Main Street, Suite 3000 Dallas, TX. 75201 (214) 974-8000 kjohnston@johnstonpratt.com	Kathleen Herkenhoff <b>HAEGGQUIST &amp; ECK, LP</b> 225 Broadway, Suite 2050 San Diego, CA. 92101 (619) 342-8000 kathleenh@haelaw.com
8 9 10 11	Amy E. Keller <b>DiCELLO LEVITT &amp; CASEY LLC</b> Ten North Dearborn Street, Eleventh Floor Chicago, IL. 60602 (312) 214-7900 akeller@dlcfirm.com	Gayle Blatt <b>CASEY GERRY SCHENK FRANCAVILLA BLATT &amp; PENFIELD LLP</b> 110 Laurel Street San Diego, CA. 92101 (619) 238-1811 gmb@cglaw.com
12 13 14 15	Tina Wolfson <b>AHDOOT &amp; WOLFSON, P.C.</b> 8424 Santa Monica Blvd., Suite 575 West Hollywood, CA., 90069 (310) 474-9111 aw@ahdootwolfson.com	Ariana Tadler <b>MILBERG TADLER PHILLIPS GROSSMAN LLP</b> 1 Pennsylvania Plaza, Suite 1920 New York, NY. 10119 (212) 946-9453 atadler@milberg.com
16 17 18 19	Karin Swope <b>KELLER ROHRBACK LLP</b> 1201 Third Avenue, Suite 3200 Seattle, Washington 98101 (206) 623-1900 mgriffin@kellerrohrback.com kswope@kellerrohrback.com	Timothy Blood <b>BLOOD HURST O'REARDON LLP</b> 501 West Broadway, Suite 1490 San Diego, CA. 92101 (619) 338-1100 tblood@bholaw.com
20 21 22 23	Melissa R. Emert <b>STULL, STULL &amp; BRODY</b> 6 East 45 <sup>th</sup> Street New York, NY 10017 (212) 687-7230 memert@ssbny.com	Christopher Ridout <b>ZIMMERMAN REED LLP</b> 2381 Rosecrans Blvd., Suite 328 El Segundo, CA. 90245 (562) 216-7383 Christopher.ridout@zimmreed.com
24 25 26	Charles E. Schaffer <b>LEVIN SEDRAN &amp; BERMAN</b> 510 Walnut Street, Suite 500 Philadelphia, PA 19102 (215) 592-1500 cshaffer@lfsblaw.com	Rosemary M. Rivas <b>LEVI &amp; KORSINSKY, LLP</b> 44 Montgomery Street, Suite 650 San Francisco, CA 94104 (415) 291-2420 rrivas@zlk.com

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<p>1 Doug McNamara  <b>COHEN MILSTEIN SELLERS &amp; TOLL          LLC</b>          1100 New York Ave. NW, Suite 500          Washington, DC. 20005          (202) 408-4600          dmcnamara@cohenmilstein.com</p>	<p>Geoffrey Rushing  <b>SAVERI &amp; SAVERI INC.</b>          706 Sansome Street, Suite 200          San Francisco, CA. 94111          (415) 217-6810          grushing@saveri.com</p>
<p>5 Ben Barnow  <b>BARNOW &amp; ASSOCIATES</b>          One North LaSalle Street, Suite 4600          Chicago, IL. 60602          (312) 621-2000          b.barnow@barnowlaw.com</p>	<p>Stephen Rosenthal  <b>PODHURST ORSECK P.A.</b>          SunTrust International Center          One S.E. 3<sup>rd</sup> Ave., Suite 2300          Miami, FL. 33131          (305) 358-2800          srosenthal@podhurst.com</p>
<p>9 Stanley Bernstein  <b>BERNSTEIN LIEBHARD LLP</b>          10 East 40th Street          New York, NY 10016          (212) 951-2040          bernstein@bernlieb.com</p>	<p>Anthony Fata  <b>CAFFERTY CLOBES MERIWETHER &amp;          SPRENGEL LLP</b>          150 S. Wacker, Suite 3000          Chicago, IL. 60606          (312) 782-4880          afata@caffertyclobes.com</p>
<p>13 Todd Garber  <b>FINKELSTEIN, BLANKINSHIP, FREI-          PEARSON &amp; GARBER, LLP</b>          445 Hamilton Ave., Suite 605          White Plains, NY. 10601          (914) 298-3281 ext. 32803          tgarber@fbfglaw.com</p>	

17 These appointments will last for the duration of the MDL proceeding, unless changed by Interim  
 18 Co-Lead Counsel or ordered by the Court. This Court looks to these counsel to undertake  
 19 personal responsibility to perform the designated functions and reserves the discretion to replace  
 20 them, on their own request or on this Court’s own motion, should they become unable to do so.  
 21 The responsibilities of each member of the Executive Committee are detailed below.

22 **C. Steering Committee**

23 Although the Court expects to receive more information about the role of the members of  
 24 the Steering Committee, the Court presently approves the identification of the following  
 25 individuals for the Steering Committee:

1	Joshua H. Eggnatz <b>EGGNATZ PASCUCCI, P.A.</b> 5400 S. University Drive, Suite 417 Davie, FL 33328 (954) 889-3359 JEggnatz@JusticeEarned.com	Scott Cole <b>SCOTT COLE &amp; ASSOCIATES</b> 1970 Broadway, 9 <sup>th</sup> Floor Oakland, CA 94612 (510) 891-9800 scole@scalaw.com
2	Richard S. Wayne <b>STRAUSS TROY</b> 150 E 4th St #4 Cincinnati, OH 45202-4018 (513) 629-9472 rswayne@strausstroy.com	Anthony G. Simon <b>SIMON LAW FIRM, P.C.</b> 800 Market St., Suite 1700 St. Louis, MO 63101 (314) 485-4034 asimon@simonlawpc.com
3	Phong Tran <b>JOHNSON FISTEL, LLP</b> 600 West Broadway, Suite 1540 San Diego, CA 92101 (619) 230-0063 Phongt@johnsonfistel.com	James Vlahakis <b>SULAIMAN LAW GROUP, LTD.</b> 2500 South Highland Ave., Suite 200 Lombard, IL 60148 (312) 313-1613 jvlahakis@sulaimanlaw.com
4	Gordon M. Fauth, Jr. <b>FINKELSTEIN THOMPSON LLP</b> 100 Pine Street, Suite 1250 San Francisco, CA 94111 (415) 398-8700 gfauth@finkelsteinthompson.com	Gary S. Graifman <b>KANTROWITZ GOLDHAMER &amp; GRAIFMAN, P.C.</b> 747 Chestnut Ridge Road Chestnut Ridge, NY 10977 (845) 262-2335 ggreifman@kgglaw.com
5	Jeffrey Squire <b>BRAGER EAGEL &amp; SQUIRE, P.C.</b> 885 Third Avenue, Suite 3040 New York, NY 10022 (212) 308-5858	Daniel Mulligan <b>JENKINS, MULLIGAN &amp; GABRIEL, LLP</b> 10085 Carroll Canyon Rd., Ste 210 San Diego, CA 92131 (858) 527-1792 dan@jmgglawoffices.com
6	Jason Barnes <b>BARNES &amp; ASSOCIATES</b> 219 East Dunklin Street, Suite A Jefferson City, MO 65109 (573) 634-8884 Jaybarnes5@zoho.com	Alexandra Steele <b>GIRARDI KEESE</b> 1126 Wilshire Blvd. Los Angeles, CA 90017 (213) 977-0211 asteel@girardikeese.com
7	Bradford Lear <b>LEAR WERTS LLP</b> 2003 West Broadway, Suite 107 Columbia, MO 65203 (573) 875-1991 lear@learwerts.com werts@learwerts.com	Archie I. Grubb, II <b>BEASLEY, ALLEN, CROW, METHVIN, PORTIS AND MILES, P.C.</b> 218 Commerce Street, PO Box 4160 Montgomery, AL 36104 (334) 269-2343 archie.grubb@beasleyallen.com

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1 **III. COMPOSITION AND RESPONSIBILITIES OF INTERIM CO-LEAD COUNSEL**  
 2 **AND PLAINTIFFS' EXECUTIVE COMMITTEE**

3 **A. Responsibilities of Interim Co-Lead Counsel**

4 Plaintiffs' Interim Co-Lead Counsel shall be responsible for determining the litigation  
 5 strategy on behalf of all plaintiffs, and for the conduct of the litigation on behalf of the Plaintiff  
 6 class, including any trial or resolution. Plaintiffs' Interim Co-Lead Counsel shall promote the  
 7 orderly and efficient conduct of this litigation and to avoid unnecessary duplication and  
 8 unproductive efforts; act as spokesperson (either personally or by designee) for the Plaintiff class  
 9 at pretrial conferences; and delegate work responsibilities to the Plaintiffs' Executive Committee  
 10 or its Chair.

11 Plaintiffs' Interim Co-Lead Counsel shall have authority to enter into stipulations (either  
 12 personally or by designee) necessary for the conduct of the litigation with opposing counsel. No  
 13 request for discovery, or other pretrial or trial proceedings shall be initiated or filed, and no  
 14 dispositive motion or response to any dispositive motion shall be filed by any plaintiff, except  
 15 through Plaintiffs' Interim Co-Lead Counsel.

16 **B. Executive Committee Chair (Administrative Counsel)**

17 The Court hereby appoints Mark Dearman of Robbins Geller Rudman & Dowd LLP as the  
 18 Chair of the Plaintiffs' Executive Committee (the "Chair") with the following duties:

- 19 a. The Chair shall be responsible for obtaining and maintaining time records for  
 20 Plaintiffs' counsel, as well as preparing and submitting reports to the Court as  
 21 requested.
- 22 b. The Chair shall delegate work responsibilities to other Plaintiffs' counsel in a fair  
 23 and orderly manner, and monitor the activities of all Plaintiffs' counsel to assure  
 24 that Plaintiffs' pretrial preparation is conducted effectively, efficiently, and  
 25 economically; that schedules are met; and that unnecessary expenditures of time  
 26 and expense are avoided.

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- 1 c. The Chair shall be available and responsible for communications to and from this  
2 Court, including distributing orders and other directions from the Court to counsel,  
3 and for providing the local rules, standing orders, and guidelines of the U.S.  
4 District Court for the Northern District of California, and any other judge’s rules  
5 and standing orders of the Court, to counsel as required by applicable Court rules.
- 6 d. The Chair shall be responsible for creating and maintaining a master service list of  
7 all parties and their respective counsel, and shall promptly advise the Court and  
8 Defendants’ counsel of changes to Plaintiffs’ Service List.
- 9 e. The Chair shall be responsible for ensuring that any updates and changes to the  
10 local rules, standing orders, and guidelines of this District or the Court are timely  
11 communicated to counsel as needed, working with the Executive Committee  
12 member(s) where it is appropriate and relevant to their responsibilities.
- 13 f. The Chair shall be responsible for distributing to counsel, as appropriate, Orders,  
14 notices, and correspondence from the Court, to the extent such documents are not  
15 electronically filed; and discovery, pleadings, correspondence, and other documents  
16 from Defendants’ counsel that are not electronically filed.

17 **C. State Court & Regulatory Liaison Counsel**

18 The Court hereby appoints Derek Howard of the Derek G. Howard Law Firm as the State  
19 Court & Regulatory Liaison Counsel. The State Court & Regulatory Liaison Counsel shall  
20 monitor any ongoing litigation in any state court, as well as any governmental or regulatory  
21 proceedings, and coordinate with such proceedings to foster efficiency, minimize duplicative  
22 discovery, and avoid management difficulties. The State Court & Regulatory Liaison Counsel  
23 shall report to the Interim Co-Lead Counsel, and the Court as requested, and shall be responsible  
24 for ensuring that any material developments and relevant updates in the state court proceedings are  
25 communicated to the appropriate members of the Executive Committee.

**D. International Liaison Counsel**

The Court hereby appoints Eli Greenstein of Kessler Topaz Metzler Check LLP; Kenneth Johnston of Johnston Pratt PLLC; and Kyle McGee of Grant & Eisenhofer, P.A., as International Liaison Counsel. The International Liaison Counsel shall monitor any ongoing litigation in any international courts, and continue to foster efficiency, minimize duplicative discovery, and avoid management difficulties. The International Liaison Counsel shall report to the Interim Co-Lead Counsel and ensure any material developments and relevant updates in the international courts are communicated to the appropriate members of the Executive Committee. The International Liaison Counsel shall also research, make recommendations to Interim Co-Lead Counsel, and assist in the pursuit of any claims based on laws outside the United States or on behalf of Class members residing outside the United States.

**E. Law and Briefing Committee**

The Court hereby appoints Amy Keller of Dicello Levitt & Casey LLC and Kathleen Herkenhoff of Haeggquist & Eck as co-chairs of the Law and Briefing Committee, responsible for coordinating the research and preparation of all pleadings and motions and assisting in the preparation of oral arguments at any hearings.

**F. Defensive Discovery and Plaintiff Coordination Committee**

The Court hereby appoints Gayle Blatt of Casey Gerry Schenk Francavilla Blatt & Penfield LLP and Tina Wolfson of Ahdoot & Wolfson as co-chairs of the Defensive Discovery and Plaintiff Coordination Committee, responsible for coordinating all discovery obligations of Plaintiffs and the Class consistent with the requirements of the Federal Rules of Civil Procedure, including the preservation of information, Rule 26 initial disclosures, responses to interrogatories, requests for production of documents, and request for admissions, and examination at depositions, as well as any motion practice related thereto.

**G. Offensive Discovery and ESI Coordination Committee**

The Court hereby appoints Ariana Tadler of Milberg Tadler Phillips Grossman LLP and Karin Swope of Keller Rohrbach LLP as co-chairs of the Offensive Discovery and ESI

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1 Coordination Committee, responsible for coordinating all discovery propounded on behalf of the  
2 Plaintiffs and the Class consistent with the requirements of the Federal Rules of Civil Procedure,  
3 including the pursuit of information, Rule 26 initial disclosure negotiation, interrogatories,  
4 requests for production of documents, requests for admissions, depositions, and any motion  
5 practice related thereto. The Offensive Discovery and ESI Coordination Committee shall also be  
6 responsible for coordinating ESI practices in this case, including negotiations with Defendant  
7 concerning an e-discovery plan, developing an ESI protocol for this case, and ensuring that  
8 appropriate protective orders are in place to guard against any release of proprietary, confidential,  
9 or personal ESI. The Offensive Discovery and ESI Coordination Committee will work with the  
10 Experts Committee to assess ESI needs and issues, implement appropriate ESI preservation  
11 procedures, identify custodians of potentially relevant ESI, and develop search terms for data  
12 searches. The Offensive Discovery and ESI Coordination Committee will handle ESI processing  
13 tasks and shall ensure that responsive ESI is collected and produced in a cost-effective manner that  
14 preserves the integrity of that ESI and enables counsel to recognize and appropriately deal with  
15 evidentiary issues associated with the admissibility of electronically generated and stored  
16 evidence.

#### 17 **H. Discovery: Device Development**

18 The Court hereby appoints Timothy Blood of Blood Hurst O'Reardon LLP and  
19 Christopher Ridout of Zimmerman Reed LLP as co-chairs of the Discovery/Device Development  
20 Committee, responsible for coordinating all discovery efforts related to the development of the  
21 devices at issue, including the relevant technology together with the Offensive Discovery and ESI  
22 Coordination Committee. The Device Development Committee will inform and educate the  
23 Offensive Discovery and ESI Coordination Committee about the relevant legal and factual issues  
24 in the case affecting discovery, including witnesses, key evidentiary issues, and any relevant risks  
25 associated with the discovery tasks at hand, and will work with the Experts Committee to select,  
26 retain, and consult with appropriate experts concerning device development issues.

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**I. Discovery: Marketing**

The Court hereby appoints Melissa Emert of Stull, Stull & Brody and Rosemary Rivas of Levi & Korsinsky LLP as co-chairs of the Discovery/Marketing Committee, responsible for coordinating all discovery efforts related to the marketing of the devices at issue together with the Offensive Discovery and ESI Coordination Committee. The Discovery/Marketing Committee will inform and educate the Offensive Discovery and ESI Coordination Committee about the relevant legal and factual issues in the case impacting discovery, including witnesses, key evidentiary issues, and any relevant risks associated with the discovery tasks at hand, and will work with the Experts Committee as necessary to select, retain, and consult with appropriate experts concerning marketing issues.

**J. Discovery: Third Party**

The Court hereby appoints Charlie Schaeffer of Levin Sedran & Berman and Geoffrey Rushing of Saveri & Saveri Inc. as co-chairs of the Third Party Discovery Committee, responsible for coordinating all third party discovery propounded on behalf of the Plaintiffs and the Class consistent with the requirements of the Federal Rules of Civil Procedure and applicable local rules, including the pursuit of documents, depositions, and any motion practice related to third-party discovery. The committee will coordinate third-party discovery with the Offensive Discovery and ESI Coordination Committee and appropriate e committees, to evaluate and develop procedures and a plan for discovery of third parties that is efficient, cost-effective, and non-duplicative.

**K. Experts**

The Court hereby appoints Doug McNamara of Cohen Milstein Sellers & Toll LLC and Stephen F. Rosenthal of Podhurst Orseck P.A. as co-chairs of the Experts Committee, responsible for researching and retaining experts as to matters relevant to this action, overseeing the preparation of expert disclosures, reports and depositions consistent with the requirements of the Federal Rules of Civil Procedure, and shall coordinate expert discovery with the Offensive

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Discovery and ESI Coordination Committee and the Executive Committee, including the response to experts disclosed by Defendants, and any motion practice related thereto.

**L. Damages/Settlement**


The Court hereby appoints Ben Barnow of Barnow & Associates and Anthony Fata of Cafferty Clobes Meriwether & Sprengel LLP as co-chairs of the Damages/Settlement Committee, responsible for coordinating efforts relating to relief, whether monetary or injunctive, including issues raised in discovery, expert disclosures, motions or trial, as well as assisting Interim Co-Lead Counsel in representing the Plaintiff class in any arbitrations, mediations, and/or settlement conferences, consistent with the Court’s ADR Local Rules and procedures.

**M. Trial Preparation**

The Court hereby appoints Stanley Bernstein of Bernstein Liebhard and Todd Garber of Finkelstein Blankenship as co-chairs of the Trial Preparation Committee, responsible for assisting Interim Co-Lead Counsel in all stages of trial preparation, including but not limited to the structure of the trial in the pretrial process; submission of detailed trial plans; decisions regarding issues, claims, and defenses that may apply; execution of the trial plan; preparation of pretrial motions and all trial documents required under this Court’s standing order; and consultation with Interim Co-Lead Counsel regarding trial strategy and the conferring and planning that is mandated by Rule 26(f) of the Federal Rules of Civil Procedure and by ADR Local Rule 3-5.

**IT IS SO ORDERED.**

Dated: May 15, 2018

  
\_\_\_\_\_  
EDWARD J. DAVILA  
United States District Judge