

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

MATTHEW BERNAL, Individually and on
Behalf of All Others Similarly Situated,

Plaintiff,

V.

ORTHOFIX MEDICAL INC., *et al.*,

Defendants.

CIVIL ACTION NO. 2:24-CV-00690-JRG

TOMMY O'HARA, Individually and on
Behalf of All Others Similarly Situated,

Plaintiff,

V.

ORTHOFIX MEDICAL INC., *et al.*,

Defendants.

CIVIL ACTION NO. 2:24-CV-00979-JRG

ORDER

Before the Court are the following motions (collectively, the “Motions”):

1. Motion and Memorandum of Law in Support of Motion of Michael Blumenthal for Appointment as Lead Plaintiff and Approval of Co-Lead Counsel (Dkt. No. 13, the “Blumenthal Motion”)
2. Motion of Southeastern Pennsylvania Transportation Authority for Appointment as Lead Plaintiff and Approval of Selection of Counsel (Dkt. No. 15, the “SEPTA Motion”)
3. Motion of Mark Bonta Medicine P.C. for Appointment as Lead Plaintiff and Approval of Co-Lead Counsel; Memorandum of Law in Support Thereof (Dkt. No. 16, the “Bonta Motion”)

In the Motions, each movant requests appointment of a different Lead Plaintiff and approval of Lead Counsel. (Dkt. Nos. 13 at 1, 15 at 1, 16 at 1.)

After the Motions had been filed, Mark Bonta Medicine P.C. filed (1) Notice of Withdrawal of Motion of Mark Bonta Medicine P.C. for Appointment as Lead Plaintiff and Approval of Co-Lead Counsel (Dkt. No. 28), and (2) Notice of Non-Opposition to Competing Motions for

Appointment of Lead Plaintiff and Approval of Selection of Lead Counsel (Dkt. No. 30). Similarly, Michael Blumenthal filed (1) Notice of Withdrawal of the Motion of Michael Blumenthal for Appointment as Lead Plaintiff and Approval of Co-Lead Counsel (Dkt. No. 29),¹ and (2) Notice of Non-Opposition of Michael Blumenthal to Competing Lead Plaintiff Motions (Dkt. No. 31).

Having considered the Blumenthal Motion (Dkt. No. 13) and the Bonta Motion (Dkt. No. 16), and the motions requesting withdrawal of the same (Dkt. Nos. 28, 30), it is **ORDERED** that the Blumenthal Motion (Dkt. No. 13) and the Bonta Motion (Dkt. No. 16) are hereby **WITHDRAWN**. Further, having considered the SEPTA Motion (Dkt. No. 15), and noting its unopposed nature,² the Court finds that it should be and hereby is **GRANTED**. Accordingly, it is **ORDERED** that (1) the Southeastern Pennsylvania Transportation Authority shall hereby be appointed as Lead Plaintiff, and (2) Cohen Milstein Sellers & Toll PLLC Cohen Milstein shall serve as Lead Counsel³ for the proposed class.⁴


¹ The Court understands the notices filed at Dkt. Nos. 28 and 29 to be motions requesting withdrawal of, respectively, the Bonta Motion and the Blumenthal Motion.

² (See Dkt. Nos. 30, 31, 32; Member Case No. 2:24-cv-00979-JRG, Dkt. No. 34.)

³ The SEPTA Motion requests that the Court approve of Forman Watkins & Krutz LLP “as Liaison Counsel for the proposed class.” (Dkt. No. 15-1.) However, 15 U.S.C. § 78u-4(a)(3)(B)(v) is entitled “Selection of lead counsel” and simply provides that “[t]he most adequate plaintiff shall, subject to the approval of the court, select and retain counsel to represent the class.” The statute is silent as to “liaison counsel.” Accordingly, the Court declines to appoint Forman Watkins & Krutz LLP as liaison counsel. The Southeastern Pennsylvania Transportation Authority may re-urge the matter if it would like the Court to consider appointing Forman Watkins & Krutz LLP as co-lead counsel.

⁴ While the Court grants the SEPTA Motion, the Court finds that it fails to adhere to this District’s Local Rules. For example, Local Rule CV-7(c) states that “[t]he motion and any briefing shall be contained in one document.” However, the SEPTA Motion fails to include the briefing—instead, the SEPTA Motion “is supported by the accompanying Memorandum of Law,” which is attached to the SEPTA Motion. (Dkt. Nos. 15 at 1, 15-1.) As another example, Local Rule CV-7(i) requires that motions must include a certificate of conference. The SEPTA Motion fails to include a certificate of conference. SEPTA is on notice that this Court expects it to carefully follow the Federal Rules of Civil Procedure, this District’s Local Rules, and this Court’s Standing Orders going forward.

So ORDERED and SIGNED this 3rd day of January, 2025.



RODNEY GILSTRAP
UNITED STATES DISTRICT JUDGE