

UNITED STATES DISTRICT COURT
DISTRICT OF MARYLAND

CHAMBERS OF
J. FREDERICK MOTZ
UNITED STATES DISTRICT JUDGE

101 WEST LOMBARD STREET
BALTIMORE, MARYLAND 21201
(410) 962-0782
(410) 962-2698 FAX

May 4, 2004

Re: MDL-1586 -*In re Mutual Funds Investment Litigation*

Dear Counsel:

We very much appreciate the extremely professional presentations all of you made at the hearing yesterday afternoon. Our decisions on the issues left open at the end of the hearing are as follows:¹

1. We agree to the appointment of Mr. Bershad and Mr. Schulman as co-chairs/chief administrative counsel for the horizontal committee.
2. We agree to the appointment of either Mr. Bershad or Mr. Schulman as chief administrative counsel for each of the tracks. Judge Blake agrees to this appointment even though neither Mr. Bershad nor Mr. Schulman represents a plaintiff in any of the cases now pending in the track assigned to her.
3. We have concluded that there is no need at this time to appoint any additional fund derivative action representatives to the horizontal committee.
4. We agree that there is no need to have liaison/administrative counsel for state court actions on the horizontal committee. However, we hope that Mr. Friedman will agree to serve as a liaison *to* the horizontal committee for the purpose of coordinating parallel state and federal proceedings.
5. The name of the position of the state court claims representative on the vertical committees will be changed to "liaison counsel." Mr. Heimann of the Lieff, Cabraser firm will fill that role. However, as the change in the name of the position reflects, Mr. Heimann will serve exclusively in a consultative capacity to express any unique interests of plaintiffs asserting supplemental state law claims in the consolidated class complaint. Counsel for defendants may communicate with the committee's administrative counsel/lead class counsel on all matters relating to all claims asserted in the class complaint, including any state law claims.

¹I have also enclosed a revised draft of the "Organizational Structure for Plaintiffs' Counsel" reflecting the decisions we made in light of your comments at the hearing.

6. References to “lead PSLRA counsel” in my prior proposed organizational structure will be changed to “lead class counsel.”

7. We have concluded that it is not necessary at this time to appoint a lead plaintiff for every fund. However, we understand that appropriate potential class representatives for various funds will be named in the consolidated class complaints. We also understand that Mr. Brody’s and Mr. Braun’s clients want to be kept fully informed of what is occurring in the litigation in order to make sure that their interests are fully protected. Accordingly, we expect administrative counsel/class counsel to maintain regular communications with Mr. Brody and Mr. Braun and any other counsel representing individual plaintiffs who request to be kept advised of developments in the litigation.

8. Mr. Simon will make a supplemental submission by May 7th concerning his request that California Financial Advisers be appointed as lead plaintiff in the *Janus* litigation. Mr. Perry will let me know by May 10th whether he has any continuing concerns about that appointment after reviewing Mr. Simon’s supplemental submission.

9. The organization of counsel we are now ordering will be subject to reconsideration and revision if the structure of the litigation is substantially changed by rulings on the motions to dismiss or for any other reason.

We understand that Mr. Bershad and Mr. Schulman will take responsibility for drafting and circulating to other counsel a proposed order for each track reflecting the organization decisions we have made. We ask that they submit to us a proposed order (or a written report on the status of the order) on or before May 11, 2004.

Very truly yours,

/s/

J. Frederick Motz
United States District Judge

cc: Honorable Catherine C. Blake
Honorable Andre M. Davis
Honorable Frederick P. Stamp, Jr.

ORGANIZATIONAL STRUCTURE FOR PLAINTIFFS' COUNSEL

VERTICAL COMMITTEES (BY FAMILY OF FUND)

Administrative counsel (this role is played by lead counsel for the class action)

Lead counsel for fund derivative action

Lead counsel for parent derivative action (if any)

Lead counsel for parent investor action (if any)

Liaison counsel for state court claims (if any)

TRACK LEADERSHIP

Chair/chief administrative counsel for the track

Court liaison counsel

HORIZONTAL COMMITTEE²

Co-chairs/chief administrative counsel for the MDL as a whole

Administrative counsel for each family of funds

One representative - fund derivative actions³

One representative - parent derivative actions

²We hope that Mr. Friedman will serve as a liaison *to* the horizontal committee to coordinate parallel state and federal proceedings.

³There is not to be a separate representative on the horizontal committee for every fund derivative action, parent derivative action, and parent investor action brought against each family of funds. Rather, there is to be a single representative for these groups by subject matter.

One representative - parent investor actions

Court liaison counsel

RESPONSIBILITIES WITHIN VERTICAL COMMITTEES

Administrative counsel

- ! Serve as contact point for defense counsel on family of fund specific administrative issues, including requests for extension and other scheduling issues
- ! Draft and negotiate case management orders on family of fund specific issues
- ! Coordinate discovery⁴
- ! Serve as primary spokesperson in conferences and hearings on family of fund specific administrative issues
- ! Coordinate settlement discussions (may have greater role after damage allocation issues have been briefed, argued, and decided at an early stage of the litigation, perhaps with the anticipated motions to dismiss)

Lead counsel for different types of claims⁵

- ! Prepare pleadings and other court documents on issues specific to a particular type of claim and to a particular family of funds
- ! Argue family of fund specific issues during hearings

⁴Administrative counsel has the responsibility for assigning discovery tasks. If lead counsel for claims other than the class claims believe that the assignments (or any other decisions made by administrative counsel) present a conflict, they may submit the issue to the court for resolution.

⁵Administrative counsel serves this role for class claims.

- ! Conduct discovery particular to claims as assigned by administrative counsel
- ! Represent clients' interests in internal discussions among plaintiffs' counsel
- ! Settlement role: to be further determined after damage allocation issues have been briefed, argued, and decided

Liaison counsel - state law claims

- ! Prepare court documents on state law issues specific to a particular family of funds
- ! Argue family of fund specific state law issues during hearings
- ! Conduct discovery particular to state law claims as assigned by administrative counsel
- ! Represent clients and other state claim plaintiffs in internal discussions among plaintiffs' counsel
- ! Settlement role: to be further determined after damage allocation issues have been briefed, argued, and decided

RESPONSIBILITIES OF TRACK LEADERSHIP

Chair/chief administrative counsel for the track

- ! Serve as contact point for defense counsel on track-wide administrative issues (if any)
- ! Organize on plaintiffs' side monthly conference calls and other track-wide proceedings
- ! Serve as primary spokesperson in conferences and hearings on track-wide issues

Court liaison counsel

- ! Serve as contact to court on administrative matters

RESPONSIBILITIES WITHIN HORIZONTAL COMMITTEE

Co-chairs/chief administrative counsel for MDL as a whole

- ! Serve as contact point for defense counsel on MDL-wide administrative issues
- ! Draft and negotiate case management orders on MDL-wide issues
- ! Organize plaintiffs' side in MDL-wide hearings and other proceedings
- ! Coordinate cross-track and MDL-wide discovery
- ! Prepare omnibus memoranda and other court documents on MDL-wide class issues (in role as lead counsel for class claims)
- ! Designate counsel to make oral presentations on all MDL-wide class issues (in role as lead counsel for class claims)

Representatives of fund derivative, parent derivative, and parent investor actions

- ! Prepare omnibus memoranda and other court documents on MDL-wide issues within respective subject matter areas
- ! Designate counsel to make oral presentations on all MDL-wide issues within respective subject matter areas

Court liaison counsel

- ! Serve as contact to court on administrative matters