

**IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MISSOURI  
WESTERN DIVISION**

IN RE: H&R BLOCK	)	MDL No. 2474
IRS FORM 8863 LITIGATION	)	
	)	Master Case No. 4:13-MD-02474-FJG
ALL ACTIONS	)	

**ORDER TEMPORARILY APPOINTING PLAINTIFFS' LEAD COUNSEL**

Before the Court are two competing motions for appointment of Plaintiffs' Lead Counsel (Doc. Nos. 11 and 13). Upon consideration of the parties' submissions, the proceedings at the initial scheduling conference held January 8, 2014, and the relevant factors listed in Federal Rule of Civil Procedure 23(g) and the Manual for Complex Litigation (Fourth) § 10.22, the Court believes the case should proceed on two separate tracks at this time.

Therefore, as to Track One, the Court hereby appoints **Ben Barnow of Barnow and Associates, P.C., Mark K. Gray of Gray & White, and John S. Steward of Steward Law Firm, LLC** (collectively, the "Bullock Applicants") as Temporary Lead Counsel for those named plaintiffs who did not opt out of arbitration, as well as all unnamed members of the putative class who did not opt out of arbitration.

As to Track Two, the Court hereby appoints **Sherrie R. Savett and Eric Lechtzin of Berger & Montague, Eric D. Holland of Holland, Groves, Schneller & Stolze, and J. Gordon Rudd, Jr. and David M. Cialkowski of Zimmerman Reed, PLLP** (collectively, the "Opt-Out Applicants") as Temporary Lead Counsel for those named plaintiffs who opted out of arbitration, as well as unnamed members of the putative class who opted out of arbitration.<sup>1</sup>

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<sup>1</sup> The Opt-Out Applicants should note that, pursuant to the Court's Initial Scheduling Order, no discovery shall be undertaken on the opt-out plaintiffs' claims, other than as is

These appointments will expire once the Court makes its ruling on the anticipated motion(s) to compel arbitration, and at that time the Court will consider anew the issue of appointment of lead counsel. In making the current appointments, the Court acknowledges the considerable experience and qualifications of both groups of attorneys seeking appointment.

It is further **ORDERED**, as to the issues related to each separate track:

1. The Bullock Applicants and the Opt-Out Applicants shall have the day-to-day responsibility to conduct the litigation; prosecute the litigation; and initiate, coordinate, supervise, and lead Plaintiffs' counsel in connection with discovery, briefing, trial, and settlement. The Bullock Applicants and the Opt-Out Applicants shall work together to the extent that issues are common, and shall work cooperatively on such issues.
2. The Bullock Applicants and the Opt-Out Applicants may delegate responsibility for specific tasks to other Plaintiffs' counsel in the litigation to insure pretrial preparation is conducted effectively, efficiently, and economically; assist in maintaining communication among counsel; and monitor the activities of Plaintiffs' counsel to assure that schedules are met and unnecessary expenditures of time and money are avoided.
3. The Bullock Applicants and the Opt-Out Applicants shall maintain the official service list of all Plaintiffs and Plaintiffs' counsel in the litigation. The Bullock Applicants and the Opt-Out Applicants also shall perform any additional functions assigned to them by the Court. Agreements reached between Defendants and the Bullock Applicants and the Opt-Out Applicants are binding on all Plaintiffs and their

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detailed in the Initial Scheduling Order, until the Court has ruled on the anticipated motion(s) to compel arbitration.

counsel. No discovery shall be served, and no motion shall be filed, by any Plaintiffs' counsel without the consent of the Bullock Applicants and the Opt-Out Applicants, unless leave of Court is obtained.

4. The Bullock Applicants and the Opt-Out Applicants shall collect and maintain quarterly time and expense reports from all Plaintiffs' counsel for time and expenses expended in furtherance of this MDL litigation, provided that such time and expenses have been expended at the direction of the Bullock Applicants and the Opt-Out Applicants, so as to reduce the unnecessary expenditure of resources.
5. If there is a disagreement between the Bullock Applicants and the Opt-Out Applicants on issues common to Track One and Track Two, the Bullock Applicants and Opt-Out Applicants shall contact my chambers at [marylynn.shawver@mow.uscourts.gov](mailto:marylynn.shawver@mow.uscourts.gov) to schedule a teleconference.

**IT IS SO ORDERED.**

Date: January 10, 2014  
Kansas City, Missouri

**S/ FERNANDO J. GAITAN, JR.**  
Fernando J. Gaitan, Jr.  
United States District Judge