

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

ERICA P. JOHN FUND, INC., On Behalf of Itself
and all Others Similarly Situated,

Plaintiff,

v.

NOVARTIS AG, NESTLE S.A., DANIEL
VASELLA, CARY R. RAYMENT, KEVIN
BUEHLER, WERNER J. BAUER, PAUL
BULCKE, FRANCISCO CASTAÑER, JAMES
SINGH, and HERMANN WIRZ,

Defendants.

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No. 10 CV 139

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DOC #: _____
DATE FILED: <u>1/14/10</u>

**ORDER CONSOLIDATING RELATED ACTIONS AND
APPOINTING CO-LEAD INTERIM CLASS COUNSEL**

MASSACHUSETTS BRICKLAYERS AND
MASONS TRUST FUNDS, On Behalf of Itself and
all Others Similarly Situated,

Plaintiff,

v.

ALCON, INC., THOMAS G. PLASKETT,
LODEWIJK J.R. DE VINK, JOAN W. MILLER,
NOVARTIS AG, NESTLÉ S.A., DANIEL
VASELLA, CARY R. RAYMENT, KEVIN
BUEHLER, WERNER J. BAUER, PAUL BULCKE,
FRANCISCO CASTAÑER, JAMES SINGH, and
HERMANN WIRZ,

Defendants.

No. 10 CV 172

BOILERMAKERS LODGE 154 RETIREMENT
PLAN, On Behalf of Itself and all Others Similarly
Situated,

Plaintiff,

v.

NOVARTIS AG, ALCON, INC., NESTLE S.A.,
DANIEL VASELLA, CARY R. RAYMENT,
KEVIN BUEHLER, WERNER J. BAUER, PAUL
BULCKE, FRANCISCO CASTAÑER, JAMES
SINGH, and HERMANN WIRZ,

Defendants.

No. 10 CV 201

OKLAHOMA FIREFIGHTERS PENSION &
RETIREMENT SYSTEM, On Behalf of Itself and all
Others Similarly Situated,

Plaintiff,

v.

NOVARTIS AG, ALCON, INC., NESTLE S.A.,
DANIEL VASELLA, CARY R. RAYMENT,
KEVIN BUEHLER, WERNER J. BAUER, PAUL
BULCKE, FRANCISCO CASTAÑER, JAMES
SINGH, and HERMANN WIRZ,

Defendants.

No. 10 CV 210

CITY OF WESTLAND POLICE & FIRE
RETIREMENT SYSTEM, On Behalf of Itself and all
Others Similarly Situated,

Plaintiff,

vs.

ALCON, INC., DANIEL VASELLA, CARY R.
RAYMENT, KEVIN BUEHLER, WERNER J.
BAUER, PAUL BULCKE, FRANCISCO
CASTAÑER, JAMES SINGH, HERMANN WIRZ,
NOVARTIS AG, and NESTLE S.A.

Defendants.

No. 10 CV 233

This matter having been presented to the Court by Bernstein Litowitz Berger & Grossmann LLP, Barroway Topaz Kessler Meltzer & Check, LLP, Labaton Sucharow LLP, Grant & Eisenhofer P.A., and Kahn Swick & Foti LLC, counsel for Plaintiffs in the above-captioned actions (“Plaintiffs”), pursuant to: (i) an agreement among Plaintiffs; (ii) Rule 42 of the Federal Rules of Civil Procedure; and (iii) Rule 23(g) of the Federal Rules of Civil Procedure, seeking consolidation of the above-captioned related shareholder actions, all of which relate to the plan of defendant Novartis AG to acquire all publicly held shares of defendant Alcon, Inc., and the appointment of an Executive Committee and Co-Lead Interim Class Counsel;

AND NOW, the Court finding that *Massachusetts Bricklayers & Mason Trust Funds v. Alcon, Inc.*, No. 10 CV 172 (S.D.N.Y.) (the “*Bricklayers Action*”), *Boilermakers Lodge 154 Retirement Plan v. Novartis AG*, No. 10 CV 201 (S.D.N.Y.) (the “*Boilermakers Action*”), *Oklahoma Firefighters Pension & Retirement System v. Novartis AG*, No. 10 CV 210 (S.D.N.Y.) (the “*Firefighters Action*”), and *City of Westland Police & Fire Retirement System v. Alcon, Inc.*, No. 10 CV 233 (the “*Westland Action*”) are substantially related to *Erica P. John Fund, Inc. v. Novartis AG*, No. 10 CV 139 (S.D.N.Y.) (the “*John Fund Action*” and, collectively with the *Boilermakers Action*, the *Bricklayers Action*, and the *Firefighters Action*, the “Related Actions”), such that the orderly and efficient disposition of the litigation of the Related Actions would best be facilitated by consolidation of the Related Actions into one action;

AND FURTHER, the Court finding that Bernstein Litowitz Berger & Grossmann LLP, Barroway Topaz Kessler Meltzer & Check, LLP, Labaton Sucharow LLP, and Grant & Eisenhofer P.A. meet all of the requirements under Federal Rule of Civil Procedure 23(g) for appointment of interim class counsel;

It is therefore, ORDERED, as follows:

1. Pursuant to Rule 42 of the Federal Rules of Civil Procedure, the Related Actions are consolidated for all purposes under Case No. 10 CV 139. The caption of the consolidated action shall be *In re Alcon Shareholder Litigation*, Consolidated Case No. 10 CV 139 in the

United States District Court for the Southern District of New York (“the Consolidated Action”). Hereafter, papers relating to the Consolidated Action need only be filed in Case No. 10 CV 139.

2. Plaintiffs will file a consolidated complaint in the Consolidated Action within seven days of the entry of this order.

3. All documents previously filed in any of the Related Actions consolidated herein are deemed part of the record in the Consolidated Action.

4. This Order shall apply to each related class action subsequently filed in or transferred to the United States District Court for the Southern District of New York. Any such subsequently filed case shall be automatically consolidated into the Consolidated Action and Defendants shall not be required to answer or otherwise respond to any complaint in any such case.

5. Pursuant to Rule 23(g) of the Federal Rules of Civil Procedure, Bernstein Litowitz Berger & Grossmann LLP, Barroway Topaz Kessler Meltzer & Check, LLP, Labaton Sucharow LLP, and Grant & Eisenhofer P.A. are hereby appointed as Co-Lead Interim Class Counsel in the Consolidated Action.

6. Co-Lead Interim Class Counsel shall have the authority to speak for Plaintiffs in matters regarding pretrial and trial procedure and in settlement negotiations and shall make all work assignments in such a manner as to facilitate the orderly and efficient prosecution of this litigation and to avoid duplicative or unproductive effort.


7. Co-Lead Interim Class Counsel shall be responsible for coordination of all activities and appearances on behalf of Plaintiffs. No motion, request for discovery, or other pretrial proceeding shall be initiated or filed by plaintiffs except through Co-Lead Interim Class Counsel. Co-Lead Interim Class Counsel shall also be available and responsible for communications to and from this Court. Co-Lead Interim Class Counsel shall be responsible for the creation and maintenance of a master service list of all parties and their respective counsel.

8. Kahn Swick & Foti LLC is hereby appointed as Chair of Plaintiffs’ Executive Committee, which shall perform such work as delegated by Co-Lead Interim Class Counsel.

9. Defendants' counsel may rely upon all agreements made with Co-Lead Interim Class Counsel, or other duly authorized representatives of plaintiffs.

10. The Court will hold an initial case management conference on January ~~29~~²⁷, 2010,
at 1:00 P.M.
SO ORDERED.

Dated: *13 January 2010*


THE HONORABLE VICTOR MARRERO
UNITED STATES DISTRICT JUDGE