

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLORADO

Harrison Spiers, individually and on behalf of all others similarly
situated v. Clinic Service Corporation

Spiers v. Clinic Service Corporation, Civil Action No. 26-cv-00459-PAB-KAS (D. Colo. May 7, 2026) · No. 26-cv-00459-PAB-KAS · Decided May 7, 2026

SUMMARY

The United States District Court for the District of Colorado grants plaintiffs’ motion to consolidate Harrison Spiers v. Clinic Service Corporation with Merei v. Clinic Service Co. and others. The Court also appoints Gary M. Klinger and William B. Federman as Interim Co-Lead Counsel and establishes filing and caption requirements for the consolidated data-breach litigation.

CASE DETAILS

COURT	United States District Court for the District of Colorado
WRITING FOR THE COURT	Philip A. Brimmer
JURISDICTION	United States District Court for the District of Colorado
DECIDED	May 7, 2026
DOCKET	26-cv-00459-PAB-KAS
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiffs moved to consolidate this putative class action with Merei v. Clinic Service Co., No. 26-cv-00460-PAB-TPO, and to appoint interim co-lead class counsel. The court granted both requests.
STANDARD OF REVIEW	Consolidation under Federal Rule of Civil Procedure 42(a) is committed to the sound discretion of the district court, which considers common questions of law or fact, judicial economy, and fairness to the parties. Appointment of interim class counsel is evaluated under the factors in Federal Rule of Civil Procedure 23(g)(1)(A).
PRECEDENTIAL VALUE	unpublished district court order; limited precedential value

TOPICS

- class actions
- civil procedure
- joinder
- consumer protection

PRACTICE AREAS

civil procedure

class actions

consumer protection

health law

torts

QUESTIONS PRESENTED

1. Whether the two putative class actions should be consolidated under Federal Rule of Civil Procedure 42(a) because they involve overlapping questions of law or fact.
2. Whether Gary M. Klinger and William B. Federman should be appointed interim co-lead counsel under Federal Rule of Civil Procedure 23(g)(3).

HOLDINGS

1. The actions should be consolidated because, notwithstanding differences in claims and parties, they involve overlapping legal and factual questions arising from the same data breach, and consolidation promotes judicial economy without undermining fairness.
2. Gary M. Klinger and William B. Federman should be appointed as interim co-lead counsel for the consolidated putative class action.

KEY QUOTATIONS

“Rule 42 of the Federal Rules of Civil Procedure permits consolidation when cases “involve a common question of law or fact.”” (Section A)

“Pursuant to Federal Rule of Civil Procedure 23(g)(3), the court “may designate interim counsel to act on behalf of a putative class before determining whether to certify the action as a class action.”” (Section B)

FACTUAL BACKGROUND

The two putative class actions arose from a data breach on Clinic Service Corporation's network between August 10 and August 17, 2025. The breach allegedly exposed personal information, including addresses, telephone numbers, email addresses, payment information, dates of birth, and medical and health-insurance information. Clinic Service provided medical billing and healthcare consulting services, and Children's Eye Physicians, P.C. had hired Clinic Service for medical billing and provided access to patient information. Although the cases involved different claims and Merei included Children's as an additional defendant, both actions concerned the same alleged conduct and data-security incident.

PROCEDURAL HISTORY

Harrison Spiers filed this putative class action against Clinic Service Corporation arising from a data breach. Plaintiff Yanna Merei separately filed a related putative class action involving the same alleged data-security incident and additional claims and defendants. The court considered the consolidation and interim-counsel motion and granted it, consolidating the two cases and appointing interim co-lead counsel.

DISPOSITION

other

CASES CITED

- Shump v. Balka, 574 F.2d 1341, 1344 (10th Cir. 1978)
- Breaux v. American Family Mut. Ins. Co., 220 F.R.D. 366, 367 (D. Colo. 2004)
- Harris v. Illinois-California Express, Inc., 687 F.2d 1361, 1368 (10th Cir. 1982)
- Doe v. Conceptions Reprod. Assocs., Inc., No. 25-cv-00009-NYW-CYC, 2025 WL 1617189, at *1 (D. Colo. May 6, 2025)
- O’Leary v. Yes Communities, LLC, No. 25-cv-00692-PAB, 2025 WL 1167985, at *1 (D. Colo. Apr. 22, 2025)

OPINION

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLORADO Judge Philip A. Brimmer Civil Action No. 26-cv-00459-PAB-KAS HARRISON SPIERS, individually and on behalf of all others similarly situated, Plaintiff, v. CLINIC SERVICE CORPORATION, Defendant. ORDER This matter is before the Court on Plaintiffs’ Motion to Consolidate and Appoint Interim Co-Lead Counsel [Docket No. 7], filed by plaintiffs Harrison Spiers and plaintiff Yanna Merei, who is the plaintiff in the case Merei v. Clinic Service Co., Case No. 26- cv-00460-PAB-TPO (“Merei”).

Plaintiffs move to consolidate this case with Merei and move for the appointment of Co-Lead Counsel. See Docket No. 7 at 17. Defendant Clinic Services Corporation (“Clinic Services”) does not oppose consolidation and takes no position on the appointment of interim lead class counsel. See Docket No. 13 at 1. Children’s Eye Physicians, P.C. (“Children’s”), which is a defendant in Merei, has not indicated its position on the motion to consolidate and to appoint interim co-lead counsel.¹ Children’s filed a motion for extension of time to respond to the Merei complaint, where Children’s moved to stay its response to pending the Court’s ruling on the motion to consolidate and stated that the “parties expect that the Motion to Consolidate will be granted.” Merei, Docket No. 12 at 2, ¶ 10.

A. Motion to Consolidate Rule 42 of the Federal Rules of Civil Procedure permits consolidation when cases “involve a common question of law or fact.” Fed. R. Civ. P. 42(a). The decision whether to consolidate actions involving common questions of law or fact is committed to the sound discretion of the district court. Shump v. Balka, 574 F.2d 1341, 1344 (10th Cir.

1978). The purpose of Rule 42(a) is “to give the court broad discretion to decide how cases on its docket are to be tried so that the business of the court may be dispatched with expedition and economy while providing justice to the parties.” Breaux v. American Family Mut. Ins. Co., 220 F.R.D. 366, 367 (D. Colo. 2004) (quoting 9 C. Wright & A. Miller, Federal Practice & Procedure § 2381 at 427 (2d ed.

1995)). Therefore, the Court considers both judicial economy and fairness to the parties in exercising its discretion under Rule 42(a). See Harris v. Illinois-California Express, Inc., 687 F.2d

1361, 1368 (10th Cir. 1982). Plaintiff and Ms. Merei's claims arise out of a data breach that occurred on Clinic Service's network between August 10, 2025 and August 17, 2025.

See Docket No. 1 at 2, ¶ 6; Merei, Docket No. 1 at 9, ¶ 44. Clinic Services provides third-party medical billing and healthcare consulting services to various clients. See Docket No. 1 at 6, ¶ 25; Merei, Docket No. 1 at 2, ¶ 2. Children's is a provider of pediatric ophthalmology and adult strabismus medical services that hired Clinic Services to provide medical billing services and gave Clinic Services access to its patients' personal information.

See Merei, Docket No. 1 at 2, ¶¶ 3-4. The data breach exposed Mr. Spiers, Ms. Merei, and the class's personal information, which included their addresses, phone numbers, email addresses, payment information, dates of birth, and medical and health insurance information. See Docket No. 1 at 2-3, ¶ 7; Merei, Docket No. 1 at 9, ¶ 46. Plaintiffs assert that this case and Merei "are virtually identical in that they address the same alleged conduct by Defendants, and the same data security incident." Docket No. 7 at 5.

In Spiers, plaintiff, on behalf of himself and all others similarly situated, brings claims for negligence, negligence per se, breach of a third-party beneficiary contract, and unjust enrichment against Clinic Services. Docket No. 1 at 17- 27.

In Merei, Ms. Merei, as next of friend for minor S.M. and on behalf of all others similarly situated, brings claims for negligence and negligence per se against Clinic Services and Children's. Merei, Docket No. 1 at 38-46. Ms. Merei brings, on behalf of the class, brings claims for breach of implied contract, unjust enrichment, and negligent training, hiring, and supervision against Children's.

Id. at 46-54. The Court finds that, despite there being differences in the claims and Merei's inclusion of Children's as an additional defendant, both lawsuits involve overlapping legal and factual questions, which warrants consolidation. See *Doe v. Conceptions Reprod. Assocs., Inc.*, No. 25-cv-00009-NYW-CYC, 2025 WL 1617189, *1 (D. Colo. May 6, 2025) (granting motion to consolidate where "[b]oth actions stem from the same underlying facts – an April 2024 data breach...caused by Defendant's failure to properly secure its patients' private data"); *O'Leary v. Yes Communities, LLC*, No. 25- cv-00692-PAB, 2025 WL 1167985, at *1 (D.

Colo. Apr. 22, 2025) (granting motion to consolidate where plaintiffs brought claims arising out of the same data breach and plaintiffs alleged the exposure of their personal information). The motion indicates that plaintiffs intend to file a consolidated complaint, which will potentially reconcile the differences between plaintiffs' claims. See Docket No. 7 at 2.

Accordingly, the Court will grant the motion to consolidate. B. Appointment of Co-Lead Counsel Plaintiffs move to appoint Gary M. Klinger of Milberg, PLLC and William B. Federman of Federman & Sherwood as Interim Co-Lead Counsel of the consolidated action. See Docket No. 7

at 17. Pursuant to Federal Rule of Civil Procedure 23(g)(3), the court “may designate interim counsel to act on behalf of a putative class before determining whether to certify the action as a class action.” Fed.

R. Civ. P. 23(g)(3). “When appointing interim class counsel, courts generally look to the same factors used in determining the adequacy of class counsel under Rule 23(g)(1)(A).” Doe, 2025 WL 1617189, at *2 (citation omitted).

The Rule 23(g)(1)(A) factors are: (i) the work counsel has done in identifying or investigating potential claims in the action; (ii) counsel’s experience in handling class actions, other complex litigation, and the types of claims asserted in the action; (iii) counsel’s knowledge of the applicable law; and (iv) the resources that counsel will commit to representing the class; Fed.

R. Civ. P. 23(g)(1)(A). The Court finds that appointing Mr. Klinger and Mr. Federman will serve the interests of the plaintiffs at this stage of the case. Mr. Klinger and Mr. Federman have each conducted a prefiling investigation, interviewed potential clients, researched potential claims, and drafted the complaints on behalf of their respective clients. See Docket No. 7 at 8.

They have reviewed defendants’ public statements, media reporting, and individual accounts regarding the data breach. See id. Mr. Klinger and Mr. Federman each have extensive experience in consumer protection, data breach, and class action litigation, which has made them knowledgeable about the applicable law. See id. at 9-16.

Moreover, both Mr. Klinger and Mr. Federman state that they will commit the necessary resources to advance the claims in a consolidated case, based upon their efforts to date in this case and their prior histories of litigating data breach and class action cases. See id. at 16.

The Court will appoint Mr. Klinger and Mr. Federman as Interim Co-Lead Counsel. Therefore, it is ORDERED that Plaintiffs’ Motion to Consolidate and Appoint Interim Co-Lead Counsel [Docket No. 7] is GRANTED. It is further ORDERED that, pursuant to Fed. R. Civ. P. 42(a) and D.C.COLO.LCivR 42.1, Civil Case Nos. 26-cv-00459-PAB-KAS and 26-cv-00460-PAB-TPO will be consolidated.

It is further ORDERED that Gary M. Klinger of Milberg, PLLC and William B. Federman of Federman & Sherwood are designated as Interim Co-Lead Counsel. It is further ORDERED that Magistrate Judge Kathryn A. Starnella shall serve as the magistrate judge in Case No. 26-cv-00460-PAB. It is further ORDERED that, as of the date of this order, all future pleadings and other filings shall be filed in this case only and shall be captioned as follows:

_____ Civil Case
No. 26-cv-00459-PAB-KAS (Consolidated with Civil Case No. 26-cv-00460-PAB-KAS)
_____ Civil Case

No. 26-cv-00459-PAB-KAS HARRISON SPIERS, individually and on behalf of all others similarly situated, Plaintiff, V. CLINIC SERVICE CORPORATION, Defendant.

Civil Case No. 26-cv-00460-PAB-KAS) i ss—““—““<a aw YANNA MEREL, as next of friend for S.M., a minor, on behalf of herself and on behalf of all other similarly situated individuals, Plaintiff, V. CLINIC SERVICE CO., and CHILDREN’S EYE PHYSICIANS, P.C., Defendants. DATED May 7, 2026. BY THE COURT: PHILIP A. BRIMMER United States District Judge