

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Pace v. Omni Family Health

No. 1:24-cv-01277-JLT-CDB (E.D. Cal. Mar. 17, 2025) · No. 1:24-cv-01277-JLT-CDB · Decided March 17,
2025

SUMMARY

The United States District Court for the Eastern District of California adopted the magistrate judge’s findings and recommendations concerning appointment of interim class counsel in litigation arising from a cyberattack and data breach affecting Omni Family Health patients. The court granted Plaintiffs’ motion and appointed Adam E. Polk of Girard Sharp LLP and M. Anderson Berry of Clayco C. Arnold, APC as interim class counsel. The order was issued after the parties failed to file objections within the prescribed period.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	March 17, 2025
DOCKET	1:24-cv-01277-JLT-CDB
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiffs moved under Federal Rule of Civil Procedure 23(g) for appointment of interim class counsel. The magistrate judge issued findings and recommendations recommending that the motion be granted. After the objection period expired without objections, the district court reviewed and adopted the findings and recommendations.
STANDARD OF REVIEW	De novo review under 28 U.S.C. § 636(b)(1).
PRECEDENTIAL VALUE	unpublished district court order
PARTIES	Ellen Pace, et al. v. Omni Family Health

TOPICS

- class actions
- civil procedure
- medical records privacy
- health law

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the proposed attorneys should be appointed as interim class counsel under Federal Rule of Civil Procedure 23(g).
2. Whether the district court should adopt the magistrate judge's findings and recommendations after conducting de novo review under 28 U.S.C. § 636(b)(1).

HOLDINGS

1. The proposed attorneys satisfied the applicable Rule 23(g)(1) considerations and were appointed as interim class counsel.
2. The court adopted the findings and recommendations in full after de novo review because they were supported by the record and proper analysis.

KEY QUOTATIONS

“done significant work identifying and investigating the claims at issue here.” (at 1)

“counsel are knowledgeable of the law applicable to this case.” (at 1)

“The Findings and Recommendations issued on February 27, 2025 (Doc. 30) are ADOPTED in full.” (at 2)

FACTUAL BACKGROUND

Plaintiffs seek to hold Omni Family Health liable for alleged legal violations arising from a cyberattack and data breach that disclosed personally identifiable information and protected health information of the defendant's patients. Plaintiffs proposed Adam E. Polk and M. Anderson Berry as interim class counsel. The magistrate judge found that the proposed counsel had investigated the claims, had experience with class actions and complex litigation, were knowledgeable about the applicable law, worked well together, and had the capacity and resources to handle the litigation.

PROCEDURAL HISTORY

Plaintiffs brought claims arising from a cyberattack and data breach allegedly involving personally identifiable information and protected health information of the defendant's patients. Plaintiffs moved for appointment of interim class counsel, and the magistrate judge recommended granting the motion. The district court conducted de novo review under 28 U.S.C. § 636(b)(1), adopted the findings and recommendations in full, granted the motion, and appointed the proposed attorneys as interim class counsel.

DISPOSITION

other

CASES CITED

- Wilkerson v. Wheeler, 772 F.3d 834, 838-839 (9th Cir. 2014)

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 EASTERN DISTRICT OF
CALIFORNIA 10 11 ELLEN PACE, et al., Case No.: 1:24-cv-01277-JLT-CDB 12 Plaintiffs,
ORDER ADOPTING FINDINGS AND RECOMMENDATIONS, GRANT 13 v. PLAINTIFFS’
MOTION FOR APPOINTMENT OF INTERIM CLASS 14 OMNI FAMILY HEALTH,
COUNSEL, AND APPOINTING INTERIM CLASS COUNSEL 15 Defendant. (Docs. 15, 30) 16
17 Plaintiffs seek to hold Omni Family Health liable for violations of law related to a cyber- 18
attack and data breach that resulted in the disclosure of personally identifiable information and 19
protected health information of Omni Family Health’s patients.

(See Doc. 1 at 2.) Plaintiffs 20 request the appointment of Adam E. Polk of Girard Sharp LLP and
M. Anderson Berry of Clayeo 21 C. Arnold, APC as interim class counsel pursuant to Rule 23(g)
of the Federal Rules of Civil 22 Procedure. (Doc. 15.) Defendant did not oppose the motion. 23
The magistrate judge found the factors identified under Rule 23(g)(1) weighed in favor of 24
appointment of the proposed interim class counsel.

(Doc. 30.) Specifically, the magistrate judge 25 noted the proposed counsel have “done significant
work identifying and investigating the claims 26 at issue here.” (Id. at 3.) The magistrate judge
found it was “undisputed that proposed counsel 27 have experience handling class actions, other
complex litigation, and most importantly, the types 28 of claims asserted in this litigation.” (Id.)

Likewis e, the magistrate judge found “counsel are 1 | knowledgeable of the law applicable to this
case.” (/d.) Finally, the magistrate judge determined 2 | the proposed counsel “have a good
working relationship” and “are well-established and well- 3 | regarded firms that have
demonstrated their capacity to handle the particulars of this litigation and 4 | can commit the
requisite resources to doing so.” (Id. at 4.)

Therefore, the magistrate judge 5 || recommended the Court grant the motion to appoint interim
class counsel. (/d. at 5.) 6 The Court served the Findings and Recommendations on the parties and
notified them that 7 | any objections were due within 14 days. (Doc. 30 at 5.)

The Court advised the parties the 8 | “failure to file objections within the specified time may result
in the waiver of rights on appeal.” 9 | Ud., citing Wilkerson v. Wheeler, 772 F.3d 834, 838-839 (9th
Cir. 2014).) Neither Plaintiffs nor 10 | Defendant filed objections, and the time to do so has passed.
11 According to 28 U.S.C. § 636(b)(1), this Court performed a de novo review of this case.

12 | Having carefully reviewed the matter, the Court concludes the Findings and
Recommendations 13 || are supported by the record and proper analysis. Thus, the Court
ORDERS: 14 1. The Findings and Recommendations issued on February 27, 2025 (Doc. 30) are

15 ADOPTED in full. 16 2. Plaintiffs' motion to appoint interim class counsel (Doc. 15) is GRANTED. 17 3.

Adam E. Polk of Girard Sharp, LLP, and M. Anderson Berry of Clayco C. Arnold, 18 APC, are APPOINTED as the Interim Class Counsel. 19 20 IT IS SO ORDERED. Dated: _ March 17, 2025
Charis [Tourn TED STATES DISTRICT JUDGE 22 23 24 25 26 27 28