

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

MICHAEL EDGE,

Plaintiff,

v.

Case No. 6:22-cv-1518-RBD-LHP

TUPPERWARE BRANDS
CORPORATION; MIGUEL
FERNANDEZ; and CASSANDRA
HARRIS,

Defendants.

ORDER

Before the Court are:

1. The Motion of Michael J. Dennehy for Appointment as Lead Plaintiff and Approval of Selection of Lead Counsel (Doc. 10 (“Dennehy Motion”));
2. The Motion of Ralph Estep for Appointment as Lead Plaintiff and Approval of Lead Counsel (Doc. 14 (“Estep Motion”)); and
3. Plaintiffs Dennehy and Estep’s Stipulation Appointing Co-Lead Plaintiffs and Co-Lead Counsel (Doc. 26 (“Stipulation”).

The Dennehy and Estep Motions are due to be granted and the Stipulation approved.

BACKGROUND

Michael Edge, on behalf of all persons who purchased Tupperware Brands Corporation (“Tupperware”) securities between November 3, 2021, and May 3, 2022 (“Class Period”), filed a putative class action against Defendants pursuant to the Exchange Act. (*See* Doc. 1, ¶ 1.) Plaintiffs allege that during the Class Period, Defendants made materially false and misleading statements regarding the business, operations, and compliance policies. (*See id.* ¶ 3.) As a result, Plaintiffs allege they suffered damages related to their purchases and sales of Tupperware’s securities during the Class Period. (*See id.* ¶ 50.)

Plaintiffs Dennehy and Estep purchased securities during that time. (*See* Docs. 11, 16.) They now move via stipulation to be appointed as joint co-lead plaintiffs in this case. (*See* Doc. 26.) No opposition to their appointment has been filed. The matter is ripe.

STANDARDS

The Private Securities Litigation Reform Act (“PSLRA”) establishes the procedure for appointing a lead plaintiff in class actions arising under the Exchange Act. *See* 15 U.S.C. § 78u-4(a)(3). The plaintiff who files the initial action must publish notice to the class within twenty days of filing the complaint, informing class members of their right to file a motion for appointment of lead plaintiff within sixty days of the notice. *See* 15 U.S.C. § 78u-4(a)(3)(A)(i). The

PSLRA provides a rebuttable presumption that the most adequate person to serve as lead plaintiff is the person or group of people that: (1) filed the complaint or made a motion to be appointed lead plaintiff; (2) the court determines has the largest financial interest in the relief sought by the class; and (3) satisfies the requirements of Federal Rule of Civil Procedure 23. *See* 15 U.S.C. § 78u-4(a)(3)(B)(iii)(I). The presumption may be rebutted only upon proof that the presumptively most adequate plaintiff: (1) will not fairly and adequately protect the interests of the class; or (2) is subject to unique defenses that render such plaintiff incapable of adequately representing the class. 15 U.S.C. § 78u-4(a)(3)(B)(iii)(II).

ANALYSIS

Here, Edge published the required notice on June 14, 2022. (*See* Doc. 26, p. 1); 15 U.S.C. § 78u-4(a)(3)(A)(i). Dennehy and Estep individually moved to be named as lead plaintiffs within the sixty-day window. (*See* Docs. 10, 14.) So they satisfy the motion requirement. *See* 15 U.S.C. § 78u-4(a)(3)(A)(i).

Dennehy and Estep now move via stipulation to be appointed co-lead plaintiffs in this case. (*See* Doc. 26.) No opposition has been filed. As the only parties to move for appointment of lead Plaintiff, together they have the largest financial interest in the relief sought by the class. (Docs. 10, 14); *see* 15 U.S.C. § 78u-4(a)(3)(B)(iii)(I). So they meet the financial interest requirement.

Further, they satisfy the typicality and adequacy requirements of Federal Rule of Civil Procedure 23. *See* 15 U.S.C. § 78u-4(a)(3)(B)(iii)(I); Fed. R. Civ. P. 23. Looking to typicality, “there must be a nexus between the class representative’s claims or defenses and the common questions of fact or law which unite the class.” *Kornberg v. Carnival Cruise Lines, Inc.*, 741 F.2d 1332, 1337 (11th Cir. 1984). “A sufficient nexus is established if the claims or defenses of the class and the class representative arise from the same event or pattern or practice and are based on the same legal theory.” *Id.* Dennehy and Estep purchased Tupperware securities during the Class Period. (*See* Doc. 11, pp. 6–7; Doc. 16, p. 7.) They allege the same type of financial harm due to Defendants’ alleged material misstatements and omissions concerning Tupperware’s business, operational, and financial results that violated the federal securities laws. (*See* Doc. 11, pp. 6–7; Doc. 16, p. 7.) So they satisfy the typicality requirement.

Next, the adequacy prong requires class representatives have common interests with non-representative class members and that the representatives demonstrate they will vigorously prosecute the interests of the class through qualified counsel. *Piazza v. Ebsco Indus. Inc.*, 273 F.3d 1341, 1346 (11th Cir. 2001). This analysis involves two questions: “(1) whether any substantial conflicts of interest exist between the representatives and the class, and (2) whether the representatives will adequately prosecute the action.” *Valley Drug Co. v. Geneva*

Pharms., Inc., 350 F.3d 1181, 1189 (11th Cir. 2003). There appear to be no known conflicts between either Dennehy or Estep and the other class members, and there has been no opposition to their appointment as lead plaintiffs. (*See* Doc. 11, p. 7; Doc. 16, p. 8.) Further, both Dennehy and Estep are sophisticated investors with experience overseeing counsel. (*See* Doc. 11, pp. 7-8; Doc. 16, p. 8.) So they meet the adequacy prong.

Having met all three PSLRA requirements, Dennehy and Estep are the most adequate representatives and should serve as co-lead plaintiffs in this case. 15 U.S.C. § 78u-4(a)(3)(B)(iii)(I).

The PSLRA vests the authority in the lead plaintiff to select and retain lead counsel, subject to court approval. 15 U.S.C. § 78u-4(a)(3)(B)(v). The Court has determined that Dennehy and Estep should serve as joint co-lead plaintiffs to represent the interests of the class, and these Plaintiffs have selected the law firms of Pomerantz LLP and Levi & Korsinsky, LLP to serve as co-lead counsel. (*See* Doc. 26.) With no opposition, the Court approves of Dennehy and Estep's selections.

CONCLUSION

Accordingly, it is **ORDERED AND ADJUDGED**:

1. The Dennehy and Estep Motions (Docs. 10, 14) are **GRANTED**.
2. The Stipulation (Doc. 26) is **APPROVED**. Michael J. Dennehy and

Ralph Estep are **APPOINTED** to serve as joint co-lead plaintiffs to represent the interests of the putative class in this action and the law firms of Pomerantz LLP and Levi & Korsinsky, LLP are **APPOINTED** to serve as co-lead counsel for the class.

DONE AND ORDERED in Chambers in Orlando, Florida, on September 16, 2022.




ROY B. DALTON JR.
United States District Judge