

1 William B. Federman*
2 **FEDERMAN & SHERWOOD**
3 10205 N. Pennsylvania Ave.
4 Oklahoma City, OK 73120
5 Telephone: (405) 235-1560
6 wbf@federmanlaw.com
7 *Admitted Pro Hac Vice

8 *Counsel for Plaintiff Werley and the Classes*

9 **UNITED STATES DISTRICT COURT**
10 **NORTHERN DISTRICT OF CALIFORNIA**
11 **SAN FRANCISCO / OAKLAND DIVISION**

12 DENNIS R. WERLEY, individually and on
13 behalf of all similarly situated individuals,

14 Plaintiff,

15 v.

16 ORRICK, HERRINGTON & SUTCLIFFE,
17 INTERNATIONAL LLP,

18 Defendant.

Case No.: 3:23-cv-04089-SI

~~PROPOSED~~ **ORDER**
CONSOLIDATING CASES AND
APPOINTING INTERIM LEAD
COUNSEL

THE HON. SUSAN ILLSTON

19 ROBERT D. JENSEN, individually and on
20 behalf of all similarly situated individuals,

21 Plaintiff,

22 v.

23 ORRICK, HERRINGTON & SUTCLIFFE,
24 LLP,

25 Defendant.

Case No.: 3:23-CV-04433-SI

26 *[Captions Continued on Following Page]*

1 Robert Bass and Jody Frease, Individually
2 and on Behalf of All Others Similarly
3 Situated,

4
5 Plaintiffs,

6 v.

7 ORRICK, HERRINGTON & SUTCLIFFE
8 LLP,

9 Defendant.

Case No.: 3:23-CV-06227

10 KIMBERLY L. McCAULEY, individually
11 and on behalf of all similarly situated
12 individuals,

13 Plaintiff,

14 v.

15 ORRICK, HERRINGTON & SUTCLIFFE,
16 LLP,

17 Defendant.

Case No.: 3:23-CV-06264

18 This matter, having come before the Court by Plaintiffs in the above-captioned matters,
19 by their Amended Motion to Consolidate Cases and Appoint Interim Class Counsel (“Motion”)
20 [Doc. 40] pursuant to Rules 23(g) and 42 of the Federal Rules of Civil Procedure, Memorandum
21 in Support, and the Complaint in all actions, and having found that the cases involve some of the
22 same issues of fact and law grow out of the same alleged data breach involving Defendant Orrick,
23 Herrington & Sutcliffe, LLC (“Orrick” or “Defendant”), have many of the same claims, and have
24 proposed class definitions that will encompass the same persons, this Court finds that the cases
25 have sufficient commonality of issues and parties to warrant consolidating the cases. This Court
26 further finds that the benefits of consolidation are not outweighed by any risk of prejudice or jury
27 confusion. The effect of such consolidation will be judicial economy and preserving the Parties’
28 resources, as well as avoiding disparate rulings in separate actions.

1 Accordingly, because this Court finds that the Related Actions have sufficient
2 commonality of law and fact and does not increase the risk of an unfair outcome, **IT IS HEREBY**
3 **ORDERED** that the Motion is **GRANTED**.

4 **IT IS FURTHER ORDERED** as follows:

5 1. *Werley v. Orrick, Herrington & Sutcliffe International, LLP*, No. 3:23-cv-04089
6 (N.D. Cal.); *Jensen v. Orrick, Herrington & Sutcliffe, LLP*, No. 3:23-cv-04433 (N.D. Cal.); *Bass,*
7 *et al. v. Orrick, Herrington & Sutcliffe, LLP*, No. 3:23-cv-06227 (N.D. Cal.), and *McCauley v.*
8 *Orrick, Herrington & Sutcliffe, LLP*, No. 3:23-cv-06263 (N.D. Cal.) (collectively the “Related
9 Actions”), pursuant to Fed R. Civ. P. 42(a), as well as any future related actions that may be
10 filed in, removed to, or transferred to this District shall be consolidated for pursuant to FED. R.
11 Civ. P. 42(a) before the Honorable Susan Illston (hereafter the “Consolidated Action”).

12 2. All papers filed in the Consolidated Action shall be filed under Case 3:23-cv-
13 04089-SI and shall bear the following caption:

14 **UNITED STATES DISTRICT COURT**

15 **NORTHERN DISTRICT OF CALIFORNIA**

16 IN RE: ORRICK, HERRINGTON &
17 SUTCLIFFE, LLP DATA BREACH
18 LITIGATION

Master File No.: 3:23-cv-04089-SI

19 This Documents Relates To:
20 _____
21 _____

22 3. The case file for the Consolidated Action will be maintained under Master File
23 No. 3:23-cv-4089-SI. When a pleading is intended to apply to all actions to which this Order
24 applies, the words “All Actions” shall appear immediately after the words “This Document
25 Relates To:” in the caption described above. When a pleading is not intended to apply to all
26 actions, the docket number for each individual action to which the paper is intended to apply
27 and the last name of the first-named plaintiff in said action shall appear immediately after the
28

1 words “This Document Relates To:” in the caption identified above, for example, “3:23-cv-
2 04089-SI.”

3 4. Any action subsequently filed, transferred or removed to this Court that arises
4 out of the same or similar operative facts as the Consolidated Action will be consolidated with
5 it for pre-trial purposes. The parties shall file a Motion to Reassign Related Cases whenever a
6 case that should be consolidated into this action is filed in, or transferred to, this District. If the
7 Court determines that the case is related, the clerk shall:

- 8 a. place a copy of this Order in the separate file for such action;
9 b. serve on Plaintiffs’ counsel in the new case a copy of this Order;
10 c. direct that this Order be served upon defendants in the new case; and
11 d. make the appropriate entry in the Master Docket.

12 5. The Court hereby appoints William B. Federman of Federman & Sherwood as
13 interim lead class counsel to act on behalf of the Plaintiffs and the putative Class with the
14 responsibilities set forth below:

- 15 a. Determine and present (in briefs, oral argument, or such other fashion as may
16 be appropriate, personally or by a designee) to the Court and opposing parties
17 the position of the Plaintiffs on all matters arising during pretrial proceedings;
18 b. Coordinate the initiation and conduct of discovery on behalf of Plaintiffs and
19 the Class consistent with the requirements of the Federal Rules of Civil
20 Procedure;
21 c. Convene meetings amongst counsel;
22 d. Conduct settlement negotiations on behalf of Plaintiffs and the putative Class;
23 e. Delegate tasks to other plaintiffs’ counsel as needed and appropriate in a
24 manner to ensure that pretrial preparation for Plaintiffs and the putative Class
25 is conducted efficiently and effectively;
26 f. Negotiate and enter into stipulations with opposing counsel as necessary for
27 the conduct and efficient advancement of the litigation;
28

- 1 g. Monitor the activities of all counsel to ensure that schedules and litigation
- 2 deadlines are being met and unnecessary expenditures of time and funds are
- 3 avoided;
- 4 h. Perform such other duties as may be incidental to the proper coordination of
- 5 Plaintiffs' pretrial activities or authorized by further order of this Court;
- 6 i. Serve as the primary contact for communications between the Court and other
- 7 plaintiffs' counsel;
- 8 j. Ensure that all notices, orders, and material communications are properly
- 9 distributed (to the extent that they are not otherwise served on Plaintiffs'
- 10 counsel via the Court's electronic filing system);
- 11 k. Communicate with defense counsel as necessary to promote the efficient
- 12 advancement of this litigation; and
- 13 l. Performing all other duties or tasks as are necessary to the prosecution of this
- 14 matter on behalf of the putative Class.

15 6. The Court hereby appoints Robert Green of Green & Noblin, P.C., Amber L.
16 Schubert of Schubert Jonckheer & Kolbe LLP, and M. Anderson Berry of Clayco C. Arnold APC
17 as members of the Plaintiffs' Steering Committee. Plaintiffs' Steering Committee shall work in
18 tandem and in support of interim lead class counsel in the orderly and efficient prosecution of the
19 consolidated action and carry out such duties and responsibilities as are appropriate for the
20 successful prosecution of this action, including conducting and coordinating discovery. The
21 members of Plaintiffs' Steering Committee shall also, from time to time, consult with interim
22 lead class counsel on formulating overall case strategy, developing a litigation plan, coordinating
23 Plaintiffs' pretrial activities, fulfilling the obligations set forth in this Order, and otherwise
24 planning for trial.

25 7. The Court hereby appoints Robert Green of Green & Noblin P.C. as interim liaison
26 counsel with the responsibilities set forth below:

- 27 a. Maintain and distribute to co-counsel and to Defendant's liaison counsel an up-to-
- 28 date service list;

- b. Receive and, as appropriate, distribute to co-counsel orders from the Court and documents from opposing parties and counsel;
- c. Maintain and make available to co-counsel at reasonable hours a complete file of all documents served by or upon each party except such documents as may be available at a document depository;
- d. Establish and maintain a document depository; and
- e. Perform such other duties that may be incidental to proper coordination of Plaintiffs' pretrial activities or authorized by lead interim class counsel.

8. Unless otherwise ordered by the Court upon a showing of good cause, this Order shall apply to the above-captioned matters, any action filed in, transferred to, or removed to this Court which relates to the subject matter at issue in this case, and shall apply to all actions included in Case No. 3:23-cv-04089-SI. Interim lead counsel is to serve a copy of this Order and all future orders on counsel for plaintiffs in any related action that they become aware of which is not yet consolidated into this consolidated proceeding.

9. Plaintiffs in the Consolidated Action shall file an operative, Consolidated Amended Complaint ("CAC") within 30 days of this Order. Defendant need not respond to any of the previously filed complaints in the Related Actions, and will respond to the operative CAC within 45 days after it is filed. If Defendant files a motion directed to the CAC, Plaintiffs will have 45 days thereafter to file an opposition, and Defendant will then have 30 days to file a reply.

IT IS SO ORDERED.

Dated: December 18, 2023



HONORABLE SUSAN ILLSTON
UNITED STATES DISTRICT JUDGE