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21 **UNITED STATES DISTRICT COURT**
22 **CENTRAL DISTRICT OF CALIFORNIA**

23 **IN RE: CEREBRAL, INC. PRIVACY**
24 **PRACTICES,**

25 Case No. CV 23-1803 FMO
26 (MAAx)

27 Judge Fernando M. Olguin

28 **ORDER GRANTING UNOPPOSED MOTION TO APPOINT INTERIM**
CLASS COUNSEL UNDER FED. R. CIV. P. 23(g)(3)

29 Having reviewed plaintiffs’ Unopposed Motion to Appoint Interim Class
30 Counsel (Dkt. 27, “Motion”), the Motion is hereby **GRANTED**.

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Accordingly, the Court **ORDERS** as follows:

A. Appointments to Interim Counsel Leadership Structure.

1. Plaintiffs’ Interim Co-Lead Counsel

The Court appoints Terence R. Coates (Markovits, Stock & DeMarco, LLC) and Gary M. Klinger (Milberg Coleman Bryson Phillips Grossman PLLC) as Interim Class Counsel for all Plaintiffs. Interim Co-Lead Counsel must assume responsibility for the following duties during all phases of this litigation:

- a) Coordinating the work of preparing and presenting all of Plaintiffs’ claims and otherwise coordinating all proceedings, including organizing and supervising the efforts of Plaintiffs’ counsel in a manner to ensure that Plaintiffs’ pretrial preparation is conducted effectively, efficiently, expeditiously, and economically;
- b) Delegating work responsibilities and monitoring the activities of all Plaintiffs’ counsel, including non-lead/liaison plaintiff’s counsel who are expressly authorized to work on this case, in a manner to promote the orderly and efficient conduct of this litigation and to avoid unnecessary duplication and expense;
- c) Calling meetings of Plaintiffs’ counsel for any appropriate purpose, including coordinating responses to questions of other

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parties or of the Court, and initiating proposals, suggestions, schedules, project assignments, and any other appropriate matters;

d) Determining (after consultation with members of the Interim Liaison Counsel and other co-counsel as may be appropriate) and presenting (in briefs, oral argument, or such other fashion as he or his designee may deem appropriate) to the Court and opposing parties the position of the Plaintiffs on all matters arising during pretrial (and, if appropriate, trial) proceedings;

e) Serving as the primary contact for all communications between Plaintiffs and Defendant, and acting as spokespersons for all Plaintiffs vis-à-vis Defendant and the Court;

f) Directing and executing on behalf of Plaintiffs the filing of pleadings and other documents with the Court, or directing Liaison Counsel to do the same;

g) Appearing at all court hearings and conferences regarding the case as most appropriate for effective and efficient representation, and speaking for Plaintiffs at all such hearings and conferences;

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- h) Receiving and initiating communication with the Court and the Clerk of the Court (including receiving orders, notices, correspondence, and telephone calls) and dispensing the content of such communications among Plaintiffs' counsel or through Liaison Counsel;
- i) Initiating and conducting discussions and negotiations with counsel for Defendant on all matters, including settlement;
- j) Negotiating and entering into stipulations with opposing counsel as necessary for the conduct of the litigation;
- k) Initiating, coordinating, and conducting all discovery on Plaintiffs' behalf and ensuring its efficiency, with the assistance of all Plaintiffs' counsel;
- l) Selecting, consulting with, and employing experts for Plaintiffs, as necessary;
- m) Encouraging and enforcing efficiency among all Plaintiffs' counsel;
- n) Assessing Plaintiffs' counsel for the costs of the litigation;

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- o) Preparing and distributing periodic status reports to the Court and to the parties as ordered;
- p) Develop and recommend for Court approval practices and procedures pertaining to attorneys’ fees and expenses as further detailed below and, on an ongoing basis, monitor and administer such procedures. At such time as may be appropriate, Interim Co-Lead Counsel also will recommend apportionment and allocation of any fees and expenses that might become due to Plaintiffs’ counsel in this matter, subject to Court approval; and,
- q) Performing such other duties as are necessary in connection with the prosecution of this litigation or as may be further directed by the Court.

2. Plaintiffs’ Interim Liaison Counsel

The Court appoints M. Anderson Berry (Clayo C. Arnold, APLC) and April M. Strauss (April M. Strauss, APC) as Interim Liaison Counsel. Interim Liaison Counsel is responsible for performing the duties and responsibilities described in the MANUAL FOR COMPLEX LITIGATION § 21.221 (4th ed. 2004), including facilitating and expediting communications with and among Plaintiffs’ counsel and fulfilling such other duties as requested by the Court or Interim Co-Lead Counsel. The Court also

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orders the following:

- a) Interim Liaison Counsel is designated as the counsel for all Plaintiffs in all cases upon whom others must serve all notices, orders, pleadings, motions, discovery, and memoranda.
- b) Interim Liaison Counsel is authorized to: (a) receive orders, notices, correspondence, and telephone calls from the Court and the Clerk of the Court on Plaintiffs’ behalf; (b) prepare and transmit copies of such orders and notices on Plaintiffs’ behalf; and (c) receive orders and notices from the Judicial Panel on Multidistrict Litigation, if any.
- c) Interim Liaison Counsel shall maintain complete files with copies of all documents served and make such files available to all Plaintiffs’ counsel on request.
- d) Interim Liaison Counsel shall assume other responsibilities as may be deemed appropriate by Interim Co-Lead Counsel or as ordered by the Court.

B. Additional Matters

1. Settlement Discussions

Any discussions of a settlement of this litigation shall be conducted by Interim

1 Co-Lead Counsel and any counsel designated by Interim Co-Lead Counsel.

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3 **2. Proposed Agendas**

4 In advance of each status conference, Interim Co-Lead Counsel, Interim
5 Liaison Counsel and Defendant’s counsel will meet and confer regarding the agenda
6 for the conference. Unless otherwise ordered, Interim Co-Lead Counsel, Interim
7 Liaison Counsel, and Defendant’s counsel will file a joint notice setting out the
8 proposed agenda and the parties’ joint and/or respective positions no later than two
9 calendar days before each status conference.
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12 **3. Application of this Order**

13 This Order applies to all actions included in the above-captioned consolidated
14 matters and all subsequently consolidated actions.
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16 Interim Liaison Counsel must serve a copy of this Order and all future orders
17 promptly by overnight delivery service, facsimile, or other expeditious electronic
18 means on counsel for Plaintiffs in each related action not yet consolidated in this
19 proceeding to the extent that Interim Liaison Counsel is aware of any such action(s)
20 and on all attorneys for Plaintiffs whose cases have been so consolidated but who
21 have not yet registered for ECF.
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25 **SO ORDERED.**

26 May 15, 2023

/s/

27 **HON. FERNANDO M. OLGUIN**
28 **UNITED STATES DISTRICT JUDGE**