

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

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DATE FILED: 5-13-09**

**JOHN CACOULIDIS and PHYLLIS CACOULIDIS ,  
as Trustees of GRAND METRO BUILDERS OF NY  
CORP. DEFINED BENEFIT PLAN, on behalf of  
themselves and all Others Similarly Situated, and  
Derivatively on behalf of BEACON ASSOCIATES  
LLC I,**

No. 09 Civ. 0777 (LBS)

**Plaintiffs,**

**v.**

**BEACON ASSOCIATES MANAGEMENT CORP.;  
JOEL DANZIGER, ESQ.; HARRIS MARKHOFF,  
ESQ.; IVY ASSET MANAGEMENT CORP.; THE  
BANK OF NEW YORK MELLON  
CORPORATION; FRIEDBERG SMITH & CO. P.C.;  
and JOHN DOES 1-100,**

**Defendants,**

**and BEACON ASSOCIATES LLC I,**

**Nominal Defendant.**

**JAY RAUBVOGEL, individually and as a trustee for  
M. RAUBVOGEL CO. TRUST, on behalf of  
themselves and all others similarly situated,**

No. 09 Civ. 2401 (LBS)

**Plaintiffs,**

**v.**

**BEACON ASSOCIATES LLC I, BEACON  
ASSOCIATES MANAGEMENT CORPORATION,  
IVY ASSET MANAGEMENT, JOEL DANZIGER,  
HARRIS MARKHOFF, THE BANK OF NEW  
YORK MELLON CORPORATION, and  
FRIEDBERG SMITH & CO. P.C.,**

**Defendants.**

PLUMBERS LOCAL 112 HEALTH FUND, on  
behalf of themselves and all others similarly situated,

Plaintiffs,

v.

BEACON ASSOCIATES MANAGEMENT CORP.,  
JOEL DANZIGER, ESQ., HARRIS MARKHOFF,  
ESQ., and IVY ASSET MANAGEMENT  
CORPORATION,

Defendants.

No. 09 Civ. 3202 ( )

<sup>105</sup>  
**[PROPOSED] ORDER CONSOLIDATING ACTIONS,  
APPOINTING LEAD PLAINTIFF AND APPOINTING LEAD COUNSEL**

Upon consideration and review of the Motion of Plumbers & Steamfitters Local 267 Benefit Funds, Plumbers Local 112 Health Fund, Local 73 Retirement Fund and U.A. of Journeymen & Apprentices Local 73 Fund's (collectively "the Pipe Trades Group"), For Consolidation, For Appointment As Lead Plaintiff and Approval of Lead Counsel (the "Motion"), the documents submitted in support of the Motion, all documents submitted by competing movants, and the May 11, 2009 argument of counsel,

**IT IS HEREBY ORDERED that:**

1. The actions captioned *Cacoulidis v. Beacon Associates Management Corp., et al.*, Civil Action No. 09-cv-0777-LBS and *Raubvogel v. Beacon Associates LLC I, et al.*, Civil Action No. 09-cv-2401-LBS are consolidated for pre-trial purposes, with the action captioned *Plumbers Local 112 Health Fund v. Beacon Associates Management Corp., et al.*, No. 09-cv-3202 pursuant to Rule 42 of the Federal Rules of Civil Procedure and Section 21D(a)(3)(B)(ii) of the Securities Exchange Act of 1934 ("Exchange Act").

2. The above consolidated actions shall hereinafter be styled and bear the caption as set forth below:

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

IN RE: BEACON ASSOCIATES  
LITIGATION

This Document Relates To:

MASTER FILE  
NO. 09-CV-0777-LBS

All related actions shall be consolidated for pre-trial purposes pursuant to this Order.

3. A Master File is hereby established for these consolidated actions and in all other cases filed in or transferred to this Court that are consolidated with these actions (hereinafter, “the consolidated actions”). The Master File shall be 09-cv-0777-LBS. The original of this Order shall be filed by the Clerk in the Master File herein established. The Clerk shall maintain a separate file for each of these consolidated actions and filings shall be made therein in accordance with the regular procedures of the Clerk of this Court. The Clerk shall file a copy of this Order in each such separate file.

4. When a pleading is filed and the caption, pursuant to paragraph 8, *infra*, shows that it is to be applicable to “All Actions,” the Clerk shall file such pleading in the Master File and note such filing in the Master Docket. No further copies need be filed, nor docket entries made.

5. When a case that relates to the same subject matter as these actions is hereafter filed in this Court or transferred here from another court, the Clerk of this Court shall:

a. File a copy of this Order in the separate file for such action.

- b. Mail a copy of the Order of assignment to counsel for plaintiffs and counsel for each defendant in the actions consolidated herewith.
- c. Make an appropriate entry in the Master Docket.
- d. Mail to the attorneys for the plaintiff(s) in the newly filed or transferred case a copy of this Order.
- e. Upon the first appearance of any new defendant(s) mail to the attorneys for the defendant(s) in such newly filed or transferred case a copy of this Order.

6. Counsel for plaintiffs and defendants in the consolidated actions shall cooperate in calling to the attention of the Clerk any newly filed or transferred case.

7. This Order shall apply to each case alleging claims similar to those set forth in these consolidated actions, which is filed in or transferred to this Court, unless a party objecting to the consolidation of that case or to any other provision of this Order serves an application for relief from this Order or from any of its provisions within fifteen (15) days after the date on which the Clerk mails a copy of this Order to counsel for that party.

8. When a pleading is intended to be applicable to all actions to which this Order is applicable, the words, "All Actions" shall appear immediately after the words, "This Document Relates To:" in the caption set out above. When a pleading is intended to be applicable only to some, but not all, of such actions, this Court's docket number for each individual action to which the pleading is intended to be applicable and the name of the named plaintiff in said action shall appear immediately after the words "This Document Relates To:" in the caption described above, *e.g.*, "Civil Action No. 09-3202."

9. When a paper is filed and the caption shows that it is to be applicable to “All Actions,” the Clerk shall file such paper in the Master File and note such filing in the Master Docket. No further papers need be filed or docket entries made.

10. When a paper is filed and the caption, shows that it is to be applicable to less than all of the consolidated actions, the Clerk shall file the original of such paper in the Master File and a copy in the file of each specific action to which the paper is intended to be applicable, and shall note such filing in the Master Docket and in the docket of each such action. It shall be the responsibility of the party filing such paper to supply the Clerk with sufficient copies of any document to facilitate compliance with the directions of this paragraph.

11. The Court determines that the Pipe Trades Group constitutes the “most adequate plaintiff” pursuant to § 21D(a)(3)(B) of the Private Securities Litigation Reform Act of 1995 (“PSLRA) and appoints the Pipe Trades Group as Lead Plaintiff in these consolidated actions.

12. The Court approves Lead Plaintiff’s selected and retained counsel, Lowey Dannenberg Cohen & Hart P.C., as Lead Counsel to represent the Class.

13. Lead Counsel shall have the following responsibilities and authority: (a) the initiation, response, scheduling, briefing and argument of all motions; (b) the scope, order and conduct of all discovery proceedings; (c) the examination of deposition witnesses; (d) such work assignments to other Plaintiffs’ counsel as they may deem appropriate; (e) the retention of experts; (f) designation of which attorneys may appear at hearings and conferences with the Court; (g) the conduct of any settlement negotiations and preparation of all settlement documents; and (h) such other responsibilities and duties as the Court may direct in these consolidated cases.

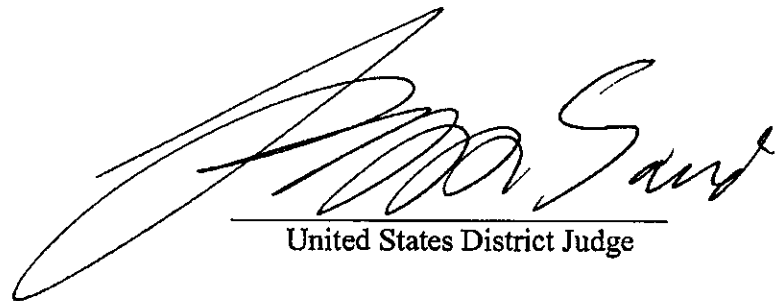
14. No motion, request for discovery, other pretrial proceedings, or settlement negotiations shall be initiated or filed by any plaintiff in the Class without the approval of Lead Counsel.

15. The Court directs Lead Counsel to file a consolidated amended complaint setting forth all federal and state law claims for relief on behalf of the class within 60 days of the entry of this Order.

16. Defendants shall answer, move or otherwise respond to the consolidated amended complaint 60 days thereafter.

17. Lead Plaintiff shall file and serve its opposition to defendants' motion(s) to dismiss, if any, no later than 60 days after service of such motion(s). Defendants shall file and serve replies in further support of any motion(s) to dismiss no later than 30 days after service of any opposition by Lead Plaintiff.

DATED: May 13, 2009

  
United States District Judge