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Wanted: Lean Team to Run Anthem Data Breach Suits

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SAN JOSE — With 17 competing groups [vying to be appointed lead counsel](#) in data-breach litigation against Anthem Inc., U.S. District Judge Lucy Koh said Thursday that she was "disappointed" with the application from the two lawyers she temporarily appointed to lead the case.

Although Koh expressed a desire to keep the plaintiffs team lean, the temporary co-leads, Eve Cervantez of Altshuler Berzon and Andrew Friedman of Cohen Milstein, proposed to run the case using a six-firm steering committee.

"I'm very disappointed that you need eight firms," Koh said. "It makes me wonder whether your two firms don't have the resources or the expertise" to litigate the case.

Anthem announced earlier this year that hackers had accessed a database containing as many as 80 million customer records, including names, birthdays and Social Security numbers. In June, more than 100 breach-related suits against Anthem were transferred to Koh by the U.S. Judicial Panel on Multidistrict Litigation. Koh appointed Cervantez and Friedman to temporarily coordinate efforts for the plaintiffs and negotiate scheduling issues with Anthem's counsel at Hogan Lovells.

When Koh asked about the firms' ability to handle the case, Cervantez replied that both have the necessary resources, but that they wanted to be transparent about the need to reach out to other firms to manage specific tasks such as identifying name plaintiffs and finding expert witnesses.

Even with a six-firm steering committee, Cohen said he and Cervantez would be doing most of the work.

"This is not a free-for-all. This is not eight firms working together. This is two firms, two people —Ms. Cervantez and myself—leading the charge," Cohen said.

The back-and-forth between Koh and the two temporary co-leads was one of the few contentious moments in the discussion. Koh said the collection of talent gathered was "incredible" and that she would have a difficult time picking lead counsel. She gave each group

ying for the top spot an opportunity to speak, asking most how many lawyers would be working on the case.

While judges generally express a preference for a streamlined team, plaintiffs firms often favor larger slates to build support for their bid, position themselves to get future work and to spread both the workload and financial costs on large cases. The steering committee proposed by Cervantez and Friedman would include Eric Gibbs of Girard Gibbs and Michael Sobol of Lieff Cabraser Heimann & Bernstein, both heavy hitters in the plaintiffs bar.

Robbins Geller Rudman & Dowd's Paul Geller, whose firm also is pursuing lead counsel status, suggested that Koh limit the leadership structure to "three or four tops." Geller noted that Koh had expressed the importance of billing and record-keeping early in the case.

"I'm sure every lawyer here has read your recent opinion in the high-tech poaching case," said Geller, referencing Koh's recent [decision trimming the attorney fees in that case by \\$40 million](#).

Quipped Koh, "I'm surprised" more firms didn't drop out of the running after reading that.

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