

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

RHONDA ROE (a pseudonym), individually
and on behalf of all others similarly situated,

Plaintiff,

v.

SURGICAL CARE AFFILIATES, LLC;
SCAI HOLDINGS, LLC; UNITEDHEALTH
GROUP, INC. and JOHN DOES 1-10,

Defendants.

Civil Action No. 1:21-cv-00305

**PLAINTIFFS' AMENDED UNOPPOSED
JOINT MOTION TO CONSOLIDATE
RELATED CASES AND APPOINT
INTERIM CO-LEAD COUNSEL**

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MOTION AND MEMORANDUM IN SUPPORT

Pursuant to Federal Rule of Civil Procedure 42, Plaintiffs Rhonda Roe, Steven Smith, and Scott Keech move to consolidate three pending cases. Pursuant to Federal Rule of Civil Procedure 23(g), Plaintiffs also move for appointment of Interim Co-Lead Counsel.

Each of their three cases are class actions, brought under the federal antitrust law, 15 U.S.C. § 1. *See Roe v. Surgical Care Affiliates, LLC, et al.*, No. 21-cv-305 (N.D. Ill.) (“*Roe Action*”); *Smith v. Surgical Care Affiliates, LLC*, No. 1:21-cv-00620 (N.D. Ill.) (“*Smith Action*”); *Keech v. Surgical Care Affiliates, LLC, et al.*, No. 21-cv-741 (N.D. Ill.) (“*Keech Action*”). After Plaintiffs filed their initial unopposed motion to consolidate, Plaintiff Alan Spradling filed a new action naming additional Defendants. *Spradling v. Surgical Care Affiliates, LLC, et al.*, No. 21-cv-01324 (N.D. Ill.) (“*Spradling Action*”) (collectively, “the Actions”). Because counsel for the new Defendants in *Spradling* have not yet made appearances, this motion does not seek consolidation of *Spradling*. Instead, if this motion is granted, Section III of the proposed pre-trial order will require Plaintiffs to serve the pre-trial order on the new Defendants (once they make appearances). Consolidation will occur automatically absent objections.

Each Plaintiff filed a lawsuit seeking to represent similar classes of senior-level employees harmed by unlawful “no-poach” agreements between and among the Defendants.

The *Roe Action* and *Keech Action* have been assigned to this Court. Plaintiffs have filed unopposed motions to re-assign the *Smith Action* and *Spradling Action* to this Court. Because the Actions involve several common questions of law and fact, consolidation for all purposes is appropriate under Rule 42(a) and will promote judicial economy without prejudicing Defendants. Furthermore, appointment of Interim Co-Lead Counsel is appropriate because, in these four lawsuits, Plaintiffs are represented by a total of thirteen law firms. A leadership structure will clarify lines of responsibility, protect the interests of the proposed Class, promote the goals of

judicial economy and efficiency, and facilitate the sound management of the Actions. Defendant SCA does not oppose the request for consolidation and takes no position on the request for appointment of Interim Co-Lead Counsel.

This motion replaces the one filed on March 4, 2021, Dkt. 23, with an updated leadership structure. It reflects the considered judgement and consensus of all Plaintiffs' counsel.

I. FACTUAL AND PROCEDURAL BACKGROUND

On January 7, 2021, the United States Department of Justice ("DOJ") announced a criminal indictment against Surgical Care Affiliates, LLC and its successor SCAI Holdings, LLC (together, "SCA"), alleging that SCA and two co-conspirators, identified as "Company A" and "Company B," entered unlawful agreements to refrain from soliciting or hiring each other's senior-level employees nationwide. *See* Indictment, *United States v. Surgical Care Affiliates, LLC*, No. 3:21-cr-00011 (N.D. Tex. Jan. 5, 2021).

On January 19, 2021, Ms. Roe filed a civil complaint against SCA, its corporate affiliates, and its unidentified co-conspirators on behalf of a proposed class of "natural persons who were employed by SCA in the United States at the level of Director or above from January 1, 2010 through December 31, 2017." *Roe* Dkt. 1 ¶ 41. Ms. Roe summarized the DOJ's factual allegations of an unlawful agreement between SCA, Company A, and Company B. *Id.* ¶¶ 8-28. Ms. Roe sought damages on behalf of herself and the proposed class under Section 1 of the Sherman Act, 15 U.S.C. § 1. *Id.* ¶¶ 51-55. The Court has scheduled an initial status conference for March 25, 2021. *Roe* Dkt. 4.

On February 3, 2021, Mr. Smith filed a civil complaint against the same defendants as Ms. Roe, and on behalf of the same proposed Class. *Smith* Dkt. 1 ¶ 48. Like Ms. Roe, Mr. Smith summarized the DOJ's factual allegations of an unlawful agreement between SCA, Company A, and Company B, and is seeking damages on behalf of himself and the proposed class under the

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