

**SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK**

MARC POSTELNEK, AS TRUSTEE OF THE  
MABEL ABRAMSON IRREVOCABLE  
TRUST #2, individually and on behalf of all  
others similarly situated,

Plaintiff,

v.

ANTHONY E. MALKIN, PETER L. MALKIN,  
and MALKIN HOLDINGS LLC,

Defendants.

Index No. 654456/2013  
Part 49 (Hon. O. Peter Sherwood)

HOPE RATNER AND MARY JANE FALES,  
Individually and On Behalf of All Others  
Similarly Situated,

Plaintiffs,

v.

ANTHONY E. MALKIN, PETER L. MALKIN,  
THOMAS N. KELTNER, JR, EMPIRE STATE  
REALTY TRUST, INC., EMPIRE STATE  
REALTY OP, L.P. and MALKIN HOLDINGS  
L.L.C.,

Defendants.

Index No. 650029/2014  
Part 49 (Hon. O. Peter Sherwood))

**[PROPOSED] ORDER TO  
CONSOLIDATE RELATED  
ACTIONS AND APPOINT CO-LEAD  
COUNSEL**

BRIAN A. LILES, AS TRUSTEE OF THE  
BRIAN A. LILES LIVING TRUST, individually  
and on behalf of all others similarly situated,

Plaintiff,

v.

ANTHONY E. MALKIN, PETER L. MALKIN,  
THOMAS N. KELTNER, JR, and ERST MH  
HOLDINGS, L.L.C. f/k/a MALKIN  
HOLDINGS L.L.C.,

Defendants.

Index No. 650108/2014  
Part 49 (Hon. O. Peter Sherwood)

STEVEN L. KEENHOLTZ, M.D., Individually  
and On Behalf of All Others Similarly Situated,

Plaintiffs,

v.

PETER L. MALKIN, ANTHONY E. MALKIN,  
and MALKIN HOLDINGS L.L.C.,

Defendants.

Index No. 650113/2014

Part 49 (Hon. O. Peter Sherwood)

Upon consideration of the Plaintiffs' Unopposed Motion to Consolidate Related Actions and Appoint Co-Lead Counsel, IT IS HEREBY ORDERED as follows:

1. The above-captioned actions shall be consolidated for all purposes and are referred to herein as the "Consolidated Action."
2. Papers need only be filed in Index No. 654456/2013.
3. The caption of the Consolidation Action shall be:

IN RE EMPIRE STATE BUILDING  
ASSOCIATES, L.L.C. PARTICIPANT  
LITIGATION

Index No. 654456/2013

4. The law firms of Bernstein Litowitz Berger & Grossmann LLP, Meister Seelig & Fein, LLP and Kessler Topaz Meltzer & Check, LLP are appointed as Co-Lead Counsel in the Action.
5. All documents previously filed to date in any of the cases consolidated herein shall be deemed part of the record in the Consolidated Action. Defendants shall have no obligation to respond to any of the existing complaints.
6. Plaintiffs shall file and serve a Consolidated Complaint in the Consolidated Action on or before February 7, 2014. Defendants shall have 21 days from service of the

Consolidated Complaint to answer or otherwise respond. Should Defendants move to dismiss the Consolidated Complaint, Plaintiffs shall have 21 days from service of Defendants' motion to file their opposition brief. Defendants shall have 14 days from service of Plaintiffs' opposition brief to file any reply.

7. Co-Lead Counsel shall have authority to speak for Plaintiffs in matters regarding pre-trial procedures, trial and settlement negotiations, and shall make all work assignments in such manner as to facilitate the orderly and efficient prosecution of this litigation and will avoid duplicative or unproductive efforts. Any agreement reached between counsel for Defendants and any of the Co-Lead Counsel shall be binding on the other Co-Lead Counsel and on all Plaintiffs.

8. Co-Lead Counsel shall be responsible for coordinating all activities and appearances of behalf of Plaintiffs and for the dissemination of notices and orders of this Court. No motion, request for discovery or other pre-trial or trial proceedings shall be initiated or filed by any Plaintiffs except through Co-Lead Counsel.

9. Co-Lead Counsel also shall be available and responsible for communications to and from this Court, including distributing orders and other directions from the Court to counsel. Co-Lead Counsel shall be responsible for creating and maintaining a service list of all parties and their respective counsel.

10. Nothing in this Order shall waive any claim, defense or other right of any party.

11. All related actions that are subsequently filed in, or transferred to, the Supreme Court of the State of New York shall be consolidated into Index No. 654456/2013, and this Order shall apply to every such related action absent additional orders of the Court. Counsel for the parties shall ensure that counsel in subsequent actions receive notice of this Order.

IT IS SO ORDERED.

Dated: January \_\_\_\_, 2014

---

Honorable O. Peter Sherwood  
Justice of the New York Supreme Court