

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

WAYSIDE CHURCH, <i>et al.</i> ,	)	
Plaintiffs,	)	
	)	No. 1:14-cv-1274
v.	)	
	)	Honorable Paul L. Maloney
VAN BUREN COUNTY, <i>et al.</i> ,	)	
Defendants.	)	
_____	)	

**ORDER GRANTING MOTIONS TO FILE FOURTH AMENDED COMPLAINT  
AND SUBSTITUTE CLASS REPRESENTATIVES**

This matter comes before the Court on Plaintiffs’ unopposed motion for the appointment of substitute class representatives. (ECF No. 499). Additionally, Plaintiffs and Defendants have stipulated to the filing of a fourth amended complaint reflecting the substitution. (ECF No. 498). Objectors to the proposed class settlement filed a response in opposition. (ECF No. 504). Plaintiffs seek to swap out seven class representatives. (ECF No. 499 at PID 11473). Plaintiffs explain that some have passed away or have otherwise become unable to continue as class representatives. The Court will grant both motions.

**I. Legal Standard**

Courts have discretion to effectuate the class action settlement process. *See* Fed. R. Civ. P. 23(d). “The Supreme Court has stated that a court can re-examine a named plaintiff’s ability to represent the class, and if it is ‘found wanting, the court may seek a substitute representative . . .’” *Heit v. Van Ochten*, 126 F. Supp. 2d 487, 495 (W.D. Mich. 2001) (quoting *U.S. Parole Comm’n v. Geraghty*, 445 U.S. 388, 416 (1980)).

## II. Analysis

Courts routinely allow the substitution of class representatives in class actions. *Arvelo v. Fid. Nat'l Fin., Inc.*, No. SA-06-CA-0265-OG, 2007 WL 9712070, at \*2 (W.D. Tex. Feb. 14, 2007); *Robinson v. Sheriff of Cook Cnty.*, No. 95 C 2205, 1996 WL 417559, at \*1 (N.D. Ill. July 22, 1996), *aff'd*, 167 F.3d 1155 (7th Cir. 1999). “In general, when a certified or putative class is left without adequate representation, courts hold that adding a new class representative is appropriate, even required, to protect class interests.” *In re Gen. Motors LLC Ignition Switch Litig.*, No. 14-MC-2543 (JMF), 2017 WL 5504531, at \*1 (S.D.N.Y. Nov. 15, 2017). “[S]hould the class representative become inadequate, substitution of an adequate representative is appropriate to protect the interests of the class.” *In re Currency Conversion Fee Antitrust Litig.*, No. M 21-95, 2005 WL 3304605, at \*3 (S.D.N.Y. Dec. 7, 2005). All parties, including Objectors, agree that courts can and do exchange class representatives with some degree of regularity.

Objectors’ response in opposition to substituting the class representatives includes three arguments: (1) substitution cannot remedy the adequacy of issues present in this case; (2) Plaintiffs still have not remedied the lack of ex-lienholder class representatives; (3) the settlement is inadequate. (ECF No. 504). It is important to note that Objectors’ present arguments track the objections they filed to the settlement. (ECF Nos. 345-3, 357-1, 433, 436). Some of those objections concern the purported inadequacy of the very class representatives that Plaintiffs now seek to remove and replace. The Court believes that most of the Objectors’ present concerns would be best addressed at the final fairness hearing. It is

also peculiar that Objectors would prefer the Court to force class counsel to retain the class representatives that Objectors view as inadequate.

Upon review of Plaintiff's motion to replace seven class representatives as well as Objectors' response in opposition, the Court will grant the motion. It is in the best interest of the class to ensure adequate representation among the class representatives.

**IT IS HEREBY ORDERED** that Plaintiffs' motion to file a fourth amended complaint (ECF No. 498) is **GRANTED**. Plaintiffs shall be granted leave to file their proposed fourth amended class action complaint. (ECF No. 498-1).

**IT IS FURTHER ORDERED** that the Clerk of the Court is directed to accept the proposed fourth amended complaint as filed. (ECF No. 498-1).

**IT IS FURTHER ORDERED** that Plaintiffs' motion to substitute class representatives (ECF No. 499) is **GRANTED**.

**IT IS SO ORDERED.**

Date: January 19, 2024

/s/ Paul L. Maloney  
Paul L. Maloney  
United States District Judge