UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE NORTEL NETWORKS CORP. SECURITIES LITIGATION This Document Relates To: All Actions	:	**DECISION & ORDER** Consolidated Civil Action 01 Civ. 1855 (RMB)

Richard M. Berman, U.S.D.J.:

Upon Milberg Weiss counsel Steven G. Schulman's letter dated January 30, 2002, requesting "that the co-lead counsel structure presently in effect be discontinued and that Milberg Weiss be appointed as sole lead counsel in its stead," and upon Wechsler Harwood counsel John Halebian's letter dated January 31, 2002, requesting, among other things, that the Court deny the request to appoint Milberg Weiss as sole lead counsel and maintain the present two co-lead counsel structure, and upon the record herein, the Court hereby approves the Ontario Public Service Employees' Union Pension Trust Fund ("OPTrust") as sole lead Plaintiff and affirms its choice of (lead) counsel, Milberg Weiss, as sole lead Plaintiff's counsel for the following reasons:

1. Under the Private Securities Litigation Reform Act ("PSLRA"), "[t]he court shall adopt a presumption that the most adequate plaintiff in any private action under this Act is the person or group of persons that – . . . (bb) in the determination of the court, has the largest financial interest in the relief sought by the class . . . ." Here, OPTrust's loss as a result of its purchases of Nortel common stock is estimated at $33,057,149 (and prior proposed lead Plaintiffs have withdrawn);

2. Pursuant to the PSLRA, the Court should not disturb the lead plaintiff's choice of

class counsel unless "necessary to protect the interests of the class." Statement of Managers, "The Private Securities Litigation Reform Act of 1995," 141 Cong. Rec. H13691-08, at H13700. Milberg Weiss is Plaintiff's choice and is experienced in these matters;

3. The Court early on in this case took (and concludes again today) the position that one lead counsel would clearly have been (most) appropriate. See Aug. 28, 2001 Tr. at 2 (conference) ("We have a lead counsel issue, and I don't mean to upset anybody, but going forward we have one lead counsel in this case. So for today I don't mind hearing from all of you, but we have had a lot of confusion so far in this case and we haven't even started yet, and I feel, frankly, in part the confusion has a little bit to do with having so many lawyers, which is understandable, and I think we have done a little tripping over ourselves. . . . **So I am determined to simplify the coordination of this matter and ask you all to select one lead counsel.**") (emphasis added);[1]

4. Regrettably (and respectfully), counsel have, thus far, demonstrated more diligence in seeking out a case, than in litigating the matter. As this Court has previously stated, see Order dated December 10, 2001, "[f]rom its inception, this matter has appeared to be a case in search of an aggrieved party. See, e.g., Warth v. Seldin, 422 U.S. 490, 499-500 (1975)." The Court also reiterates that "[p]rocedural missteps have been similarly unusual," id., for, among other things, the matter has been dismissed and, subsequently, restored **three** times at this early

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[1]"While it may be appropriate and possibly even beneficial for several firms to divide work among themselves, the court should satisfy itself that such an appointment is necessary and not simply the result of a bargain among the attorneys." Manual for Complex Civil Litigation (Third), § 20.225 (2000).

stage in this litigation.

Counsel should be mindful that they have a responsibility and obligation "to act **fairly, efficiently, and economically** in the interests of all parties . . . ," see Manual for Complex Civil Litigation (Third), § 20.221 (2000) (emphasis added); and that the Court is aware of the importance of controlling attorneys' fees and the need to adopt appropriate procedures to that end.

Dated: February 1, 2002
New York, New York

Richard M. Berman, U.S.D.J.