

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No.: 06-61844-CIV-MARRA

GEORGE DURGIN, individually and on behalf
of all others similarly situated,

Plaintiffs,

v.

TOUSA, INC. et al.,

Defendants.

ORDER


This cause is before the Court upon Diamondback Capital Management, LLC's ("Diamondback") Motion to Withdraw as Lead Plaintiff, for Extension of Time for Plaintiff Class to Respond to the Defendants' Motions to Dismiss and to Establish Procedure for Appointment of a New Lead Plaintiff [DE 123], filed April 30, 2008. The Court held a hearing on the motion on May 21, 2008.

For the reasons stated in the record, the Court hereby grants Diamondback Motion to Withdraw as Lead Plaintiff, for Extension of Time for Plaintiff Class to Respond to the Defendants' Motions to Dismiss and to Establish Procedure for Appointment of a New Lead Plaintiff [DE 123]. Diamondback is no longer lead plaintiff in this action. In appointing a new lead plaintiff, the Court will only consider those plaintiffs who previously moved to be appointed lead plaintiff. See, e.g., In re Initial Pub. Offering Sec. Litig., 214 F.R.D. 117,120 & n.5 (S.D.N.Y. 2002) (declining to re-open the lead plaintiff process "when all putative class members were given notice of the opportunity to move for appointment of lead plaintiff by means of the

statutorily required published notice”). Plaintiffs meeting this criteria shall file a motion for appointment of lead plaintiff and approval of lead counsel *within 15 days of the date of this Order*. The Court will grant the motion to extend time for Plaintiffs to respond to the motions to dismiss until the time new lead plaintiff and counsel are appointed. At that time, the Court will set a new schedule for the filing of an amended complaint, if requested by the new lead counsel.

Accordingly, it is hereby **ORDERED AND ADJUDGED** that Diamondback’s Motion to Withdraw as Lead Plaintiff, for Extension of Time for Plaintiff Class to Respond to the Defendants’ Motions to Dismiss and to Establish Procedure for Appointment of a New Lead Plaintiff [DE 123] is **GRANTED** in its entirety.

DONE AND ORDERED in Chambers at West Palm Beach, Palm Beach County, Florida, this 22nd day of May 2008.



KENNETH A. MARRA
United States District Judge