

1 Cohen, Milstein, Hausfeld & Toll, P.L.L.C.
Michael P. Lehmann
2 California Bar No. 77152
One Embarcadero Center
3 Suite 526
San Francisco, CA 94111
4 Telephone: (415) 623-2047
Facsimile: (415)-433-5994
5

6 Cohen, Milstein, Hausfeld & Toll, P.L.L.C.
Steven J. Toll
Daniel S. Sommers
7 Matthew B. Kaplan
1100 New York Avenue, N.W.
8 Suite 500, West Tower
Washington, DC 20005
9 Telephone: (202) 408-4600
Facsimile: (202) 408-4699
10

11 Counsel for Movant Shahpour Javidzad
12

13 UNITED STATES DISTRICT COURT
14 NORTHERN DISTRICT OF CALIFORNIA
15

16 IN RE LDK SOLAR SECURITIES
LITIGATION,
17 This document relates to: ALL ACTIONS
18
19
20

Master File No. C-07-05182-WHA

**MOTION OF SHAHPOUR JAVIDZAD
FOR RELIEF FROM THE COURT'S
SCHEDULING ORDER; MEMORANDUM
IN SUPPORT THEREOF**

CLASS ACTION

Date: January 3, 2008
Time: 8:00 a.m.
Judge: Hon. William Alsup
Courtroom: Courtroom 9, 19th Floor

1 **NOTICE OF MOTION AND MOTION**

2 PLEASE TAKE NOTICE that on January 3, 2008, at 8:00 a.m., or at such other time as
3 shall be set by the Court, before the Hon. William Alsup at the United States Courthouse located
4 at 450 Golden Gate Ave., San Francisco, CA 94102, Shahpour Javidzad (“Movant) will move,
5 and hereby does move, the Court for an order providing relief from the Court’s November 14
6 Scheduling Order.
7

8 Movant makes this motion on the grounds that the Scheduling Order, which requires that
9 motions to be appointed Lead Plaintiff in this case be filed by today, is inconsistent with the
10 Private Securities Litigation Reform Act (“PSLRA). In the alternative, Movant seeks relief
11 pursuant to Rule 6(b)(1) of the Federal Rules of Civil Procedure on the grounds that, absent such
12 relief, he and other absent class members would not have a fair opportunity to seek appointment
13 as Lead Plaintiff. This motion is based on this Notice of Motion and Motion and accompanying
14 Memorandum, the pleadings and other filings in this matter, the Declaration of Matthew B.
15 Kaplan which accompanies this Motion, and such other written or oral argument permitted by the
16 Court.
17

18 In order to protect his rights and attempt to comply with the Order, Movant is filing
19 contemporaneously with this Motion a Motion seeking his appointment as Lead Plaintiff.
20 Because Movant only learned of the Court’s deadline yesterday, however, Movant is unable to
21 provide all the information normally provided with a Lead Plaintiff motion, including the details
22 concerning all of his trades and the amount of his losses calculated in accordance with the
23 requirements of the PSLRA. If this Motion for Relief is granted, Movant will supplement his
24 Lead Plaintiff Motions to provide additional information, such as his transactional information,
25 loss calculations, and the completed Questionnaire, to aid the Court in deciding who should be
26 appointed Lead Plaintiff.
27
28

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 Movant Shahpour Javidzad respectfully moves for relief from the Court’s November 21
3 deadline for filing a Lead Plaintiff motion, the various materials that ordinarily accompany such a
4 motion, and the Questionnaire issued by the Court, on the grounds that, under the PSLRA,
5 members of the proposed Class—including members who, like Mr. Javidzad, were not served
6 with the Court’s Order establishing the deadline because they are not named plaintiffs in this
7 litigation—have until December 10 to move to be appointed Lead Plaintiff in this case. Even if
8 the Court concludes that the PSLRA does not mandate a December 10 deadline, it should
9 nevertheless exercise the discretion granted by Rule 6(b)(1) of the Federal Rules of Civil
10 Procedure and extend the deadline until December 10, to ensure fairness to Movant and to other
11 absent members of the class who may be unaware of the Court’s ruling and who might otherwise
12 seek to invalidate the Court’s appointment of a Lead Plaintiff on the grounds that they did not
13 have a reasonable opportunity to seek Lead Plaintiff status. The Court should also establish a
14 revised briefing schedule consistent with any new deadline it may establish.
15
16

17 **Background**

18 The first complaint in this consolidated securities class action was filed on October 9,
19 2007.¹ On that same day the Coughlin Stoia law firm, which filed the complaint, issued a press
20 release advising members of the proposed class that they could seek to be appointed lead plaintiff
21 in the case by filing a lead plaintiff motion “no later than 60 days from today. Kaplan Decl. Ex.
22 A. The sixtieth day after October 9, calculated in accordance with the Federal Rules of Civil
23 Procedure, is December 10, 2007. See R. 6(a). Movant Shahpour Javidzad is a member of
24 proposed class and intends to move to be appointed Lead Plaintiff.
25
26

27 ¹ Also on October 9, another plaintiff filed a largely identical complaint in the Southern District
28 of New York. Case No. 07-CV-8706-JGK (S.D.N.Y.).

1 In a November 14, 2007 Order (docket no. 9), the Court required that all motions for
2 appointment as Lead Plaintiff be filed by November 21. In a subsequent Order (docket no. 10)
3 the Court advised that any concerns about the November 21 deadline should be raised in “a
4 formal motion filed with the Court. Neither Mr. Javidzad nor his attorneys were served with the
5 Scheduling Order, which they only learned of on November 20.
6

7 **The Court Should Grant Relief Pursuant To The PSLRA.**

8 The Court should modify its scheduling order because its November 21 deadline is
9 inconsistent with the PSLRA. “The PSLRA establishes a comprehensive scheme for selecting
10 lead plaintiffs in securities class actions. *In re Leapfrog Enters. Sec. Litig.*, No. C-03-05421,
11 2005 U.S. Dist. LEXIS 44899, at *6 (N.D. Cal. July 5, 2005). Under this statutory scheme, class
12 members have until December 10, 2007 to move for lead plaintiff status.
13

14 The PSLRA provides that any member of the proposed class—even a member who has
15 not filed a complaint or intervened in a pending case—can seek to be appointed lead plaintiff. To
16 provide notice to the proposed class members, the statute requires a plaintiff filing a securities
17 class action to issue a public notice—such as the press release in this case issued by the Coughlin
18 Stoia firm—advising potential class members “that, not later than 60 days after the date on which
19 the notice is published, any member of the purported class may move the court to serve as lead
20 plaintiff of the purported class. ² 15 U.S.C. § 78u-4(a)(3)(A).
21

22 This 60-day filing requirement has universally been understood to mean that, after
23 publication of the initial PSLRA mandated notice, “*any member of the purported plaintiff class*
24 *then has 60 days* from the date on which the notice is published to file a motion to be appointed
25 lead plaintiff. *Schrivver v. Impac Mortgage Holdings, Inc.*, No. SACV 06-31, 2006 U.S. Dist.
26

27 ² No notice need be published with respect to subsequent complaints “asserting substantially the
28 same claim or claims *Id.*

1 LEXIS 40607, at *6-7 (N.D. Cal. May 1, 2006) (emphasis added); *see also In re: Cendant Corp.*
2 *Sec. Litig.*, 404 F.3d 173, 194 n.11 (3d Cir. 2005) (“Putative class members may move to be
3 considered as lead plaintiffs for 60 days after publication of the notice). This court and other
4 courts frequently refer to a sixty-day “window in which any member of the class is entitled to
5 seek appointment as lead plaintiff. *See, e.g., In re Vaxgen Sec. Litig.*, No. C 03-1129, 2004 U.S.
6 Dist. LEXIS 29812, at *14 (N.D. Cal. Apr. 14, 2004) (referring to 60 day “window for lead
7 plaintiff motion); *Bhojwani v. Pistiolis*, No. 06 Civ. 13761, 2007 U.S. Dist. LEXIS 52139, at *9
8 n.2 (S.D.N.Y. June 26, 2007) (same); *Cordova v. Lehman Brothers, Inc.*, 237 F.R.D. 471, 476
9 (S.D. Fla. 2006) (same); *In re: XM Satellite Radio Holdings Sec. Litig.*, 237 F.R.D. 13, 17
10 (D.D.C. 2006) (same). Any shortening of this window is inconsistent with the statutory scheme.

11
12 Reducing the 60-day period would be especially unfair in this case, where absent class
13 members may have relied on statements by counsel which advised—and continue to advise—
14 class members that they have 60 days to seek lead plaintiff status. Counsel representing plaintiffs
15 in each of the three cases consolidated into this litigation have information on their web sites
16 suggesting that class members can wait until December 10 to make a lead plaintiff motion. *See,*
17 *e.g.,* “Case Information, Schatz Nobel Izard P.C., web site, Kaplan Decl. Ex. B (“you may, no
18 later than December 10, 2007, request that the Court appoint you as lead plaintiff); press release,
19 Abbey Spanier Rodd & Abrams, LLP web site, Kaplan Decl. Ex. C (identical language); chart,
20 Coughlin Stoia Geller Rudman & Robbins LLP web site, Kaplan Decl. Ex. D (indicating on
21 November 20 that Class members have 18 more days to seek lead plaintiff status). Counsel have
22 apparently made no effort to advise absent class members of the November 21 deadline. Courts
23 have recognized that investors reasonably rely on lawyer-provided information, even extending
24 the sixty-day period when attorneys’ announcements caused confusion about the last day to seek
25 lead plaintiff status. *Janovici v. DVI, Inc.*, No. 2:03-CV-04795, 2003 U.S. Dist. LEXIS 22315, at
26
27
28

1 *30 (E.D. Pa. Nov. 26, 2003) (sixty day period can be extended where law firms published
2 contradictory information on time to file lead plaintiff motion).

3
4 **In the Alternative The Court Should Grant Relief Pursuant to Rule 6(b)(1)**

5 If the Court does not believe that granting relief pursuant to the PSLRA is appropriate, it
6 should nevertheless extend the deadline pursuant to Rule 6(b)(1) of the Federal Rules of Civil
7 Procedure, which provides that, “for cause shown, a court may extend a deadline “if request
8 therefore is made before the expiration of the period originally prescribed. Fed. R. Civ. Pro.
9 6(b)(1). “[A]n application for the enlargement of time under Rule 6(b)(1) normally will be
10 granted in the absence of bad faith on the part of the party seeking relief or prejudice to the
11 adverse party. 4 Charles Alan Wright & Arthur R. Miller, Federal Practice & Procedure, § 1165
12 (3d ed. 1998).

13
14 Here there is ample cause to extend the November 21 deadline. Through no fault of his
15 own, Movant only learned of the Court’s expedited schedule the day before the Court’s deadline.
16 Before Movant can seek lead plaintiff status he and his attorneys must review his records,
17 calculate his damages in a manner consistent with the PSLRA, and accurately fill out the Court’s
18 Questionnaire. Movant cannot do this in a single day. No one in this case will be prejudiced by
19 giving him a fair opportunity to ask the Court to appoint him as lead plaintiff. Movant and his
20 counsel have endeavored to comply as fully as possible with the Court’s directive by filing a Lead
21 Plaintiff Motion today, but without the materials that normally accompanying such motions.
22

23 Furthermore, because it is subject to challenge on the grounds that it is inconsistent with
24 the PSLRA, any deadline prior to December 10, although meant to expedite this case, may
25 actually prolong it. Delay is likely if absent class members seek to invalidate the Court’s
26 designation of a lead plaintiff on the grounds that the Court prematurely considered lead plaintiff
27 motions.
28

1 **Requested Relief**

2 For the reasons set forth above, the Court should extend the Lead Plaintiff deadline until
3 December 10 and appropriately modify the briefing schedule it has established for deciding Lead
4 Plaintiff motions.³

5
6 Dated: November 21, 2007

COHEN, MILSTEIN, HAUSFELD & TOLL,
P.L.L.C.

7
8
9 By: /s/ Michael P. Lehmann

10 Michael P. Lehmann
11 Cohen, Milstein, Hausfeld & Toll,
12 P.L.L.C.
13 California Bar No. 77152
14 One Embarcadero Center
15 Suite 526
16 San Francisco, CA 94111
17 Telephone: (415) 623-2047
18 Facsimile: (415)-433-5994

19 Steven J. Toll
20 Daniel S. Sommers
21 Matthew B. Kaplan
22 1100 New York Avenue, N.W.
23 Suite 500, West Tower
24 Washington, DC 20005
25 Telephone: (202) 408-4600
26 Facsimile: (202) 408-4699

27
28 Counsel for Movant Shahpour Javidzad

29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58
59
60
61
62
63
64
65
66
67
68
69
70
71
72
73
74
75
76
77
78
79
80
81
82
83
84
85
86
87
88
89
90
91
92
93
94
95
96
97
98
99
100
101
102
103
104
105
106
107
108
109
110
111
112
113
114
115
116
117
118
119
120
121
122
123
124
125
126
127
128
129
130
131
132
133
134
135
136
137
138
139
140
141
142
143
144
145
146
147
148
149
150
151
152
153
154
155
156
157
158
159
160
161
162
163
164
165
166
167
168
169
170
171
172
173
174
175
176
177
178
179
180
181
182
183
184
185
186
187
188
189
190
191
192
193
194
195
196
197
198
199
200
201
202
203
204
205
206
207
208
209
210
211
212
213
214
215
216
217
218
219
220
221
222
223
224
225
226
227
228
229
230
231
232
233
234
235
236
237
238
239
240
241
242
243
244
245
246
247
248
249
250
251
252
253
254
255
256
257
258
259
260
261
262
263
264
265
266
267
268
269
270
271
272
273
274
275
276
277
278
279
280
281
282
283
284
285
286
287
288
289
290
291
292
293
294
295
296
297
298
299
300
301
302
303
304
305
306
307
308
309
310
311
312
313
314
315
316
317
318
319
320
321
322
323
324
325
326
327
328
329
330
331
332
333
334
335
336
337
338
339
340
341
342
343
344
345
346
347
348
349
350
351
352
353
354
355
356
357
358
359
360
361
362
363
364
365
366
367
368
369
370
371
372
373
374
375
376
377
378
379
380
381
382
383
384
385
386
387
388
389
390
391
392
393
394
395
396
397
398
399
400
401
402
403
404
405
406
407
408
409
410
411
412
413
414
415
416
417
418
419
420
421
422
423
424
425
426
427
428
429
430
431
432
433
434
435
436
437
438
439
440
441
442
443
444
445
446
447
448
449
450
451
452
453
454
455
456
457
458
459
460
461
462
463
464
465
466
467
468
469
470
471
472
473
474
475
476
477
478
479
480
481
482
483
484
485
486
487
488
489
490
491
492
493
494
495
496
497
498
499
500
501
502
503
504
505
506
507
508
509
510
511
512
513
514
515
516
517
518
519
520
521
522
523
524
525
526
527
528
529
530
531
532
533
534
535
536
537
538
539
540
541
542
543
544
545
546
547
548
549
550
551
552
553
554
555
556
557
558
559
560
561
562
563
564
565
566
567
568
569
570
571
572
573
574
575
576
577
578
579
580
581
582
583
584
585
586
587
588
589
590
591
592
593
594
595
596
597
598
599
600
601
602
603
604
605
606
607
608
609
610
611
612
613
614
615
616
617
618
619
620
621
622
623
624
625
626
627
628
629
630
631
632
633
634
635
636
637
638
639
640
641
642
643
644
645
646
647
648
649
650
651
652
653
654
655
656
657
658
659
660
661
662
663
664
665
666
667
668
669
670
671
672
673
674
675
676
677
678
679
680
681
682
683
684
685
686
687
688
689
690
691
692
693
694
695
696
697
698
699
700
701
702
703
704
705
706
707
708
709
710
711
712
713
714
715
716
717
718
719
720
721
722
723
724
725
726
727
728
729
730
731
732
733
734
735
736
737
738
739
740
741
742
743
744
745
746
747
748
749
750
751
752
753
754
755
756
757
758
759
760
761
762
763
764
765
766
767
768
769
770
771
772
773
774
775
776
777
778
779
780
781
782
783
784
785
786
787
788
789
790
791
792
793
794
795
796
797
798
799
800
801
802
803
804
805
806
807
808
809
810
811
812
813
814
815
816
817
818
819
820
821
822
823
824
825
826
827
828
829
830
831
832
833
834
835
836
837
838
839
840
841
842
843
844
845
846
847
848
849
850
851
852
853
854
855
856
857
858
859
860
861
862
863
864
865
866
867
868
869
870
871
872
873
874
875
876
877
878
879
880
881
882
883
884
885
886
887
888
889
890
891
892
893
894
895
896
897
898
899
900
901
902
903
904
905
906
907
908
909
910
911
912
913
914
915
916
917
918
919
920
921
922
923
924
925
926
927
928
929
930
931
932
933
934
935
936
937
938
939
940
941
942
943
944
945
946
947
948
949
950
951
952
953
954
955
956
957
958
959
960
961
962
963
964
965
966
967
968
969
970
971
972
973
974
975
976
977
978
979
980
981
982
983
984
985
986
987
988
989
990
991
992
993
994
995
996
997
998
999
1000

³ Movant will attempt to provide the Court with information supporting his Lead Plaintiff motion as soon as possible after it has been obtained and its accuracy confirmed. But many other absent class members will likely continue to believe that they need to file anything with the Court until December 10.