

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Judge Christine M. Arguello**

Civil Action No. 09-cv-00752-CMA-CBS
(Consolidated with 09-cv-01222-CMA-CBS and 09-cv-01356-CMA-CBS)

ERIC D. WEINSTEIN, Individually and on behalf of all others similarly situated,

Plaintiff,

v.

FISERV, INC.,
FISERV TRUST COMPANY,
NTC & CO.,
TRUST INDUSTRIAL BANK,
ROBERT BERIAULT HOLDINGS, INC.,
LINCOLN TRUST COMPANY,
TD AMERITRADE ONLINE HOLDINGS CORP., and
TD AMERITRADE HOLDING CORPORATION,

Defendants.

ORDER APPOINTING INTERIM LEAD COUNSEL

This matter is before the Court on the Plaintiffs' competing Motions to Appoint Interim Lead Counsel (Doc. ## 13 and 21). The Weinstein/Rutman Plaintiffs filed their Motion to Appoint Interim Lead Counsel first on May 29, 2009. (Doc. # 13.) That Motion was challenged by the Cohen Plaintiffs, who filed a response in opposition to the Weinstein/Rutman Plaintiffs and a Motion of their own on June 18, 2009. (Doc. ## 20 and 21.)

In response to the Weinstein/Rutman and Cohen Plaintiffs' Motions (Doc. ## 13 and 19), the Court previously consolidated the three cases referenced in the caption,

Nos. 09-cv-00752-CMA-CBS, 09-cv-01222-CMA-CBS, and 09-cv-01356-CMA-CBS. (Doc. # 28.) However, the Court withheld ruling on the appointment of interim class and liaison counsel. The Court has since held a hearing on the issue of which firm to appoint to the position of interim lead counsel and, on the Court's direction, the competing firms have submitted litigation plans and budgets to Chambers.

Based on the Court's consideration of the arguments at the hearing and review of the competing litigation plans and budgets, the Court will appoint Lovell Stewart Halebian LLP ("Lovell Stewart") as Interim Lead Counsel and Burg Simpson Eldredge Hersh & Jardine PC as interim liaison counsel in the consolidated cases.

Accordingly,

The Weinstein/Rutman Plaintiffs' Motion (Doc. # 13) is GRANTED IN PART AND DENIED IN PART and the Cohen Plaintiffs' Motion (Doc. # 21) is DENIED; and

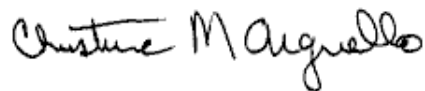
The Court FURTHER ORDERS as follows:

1. Lovell Stewart Halebian LLP are appointed Interim Lead Counsel.
2. Burg Simpson Eldredge Hersh & Jardine PC are appointed Interim Liaison Counsel.
3. The Complaint in *Rutman* (Doc. # 1), together with the Amended Complaint (Doc. # 4) and currently pending Motion to Dismiss (Doc. # 11) in *Weinstein*, are deemed withdrawn.
4. Plaintiffs shall file within thirty (30) days from the date of this Order a Complaint in the consolidated cases entitled "Consolidated Complaint."

5. Defendants shall have up to and including thirty (30) days after Plaintiffs' Consolidated Complaint is filed within which to file a Motion to Dismiss under Fed. R. Civ. P. 12. Plaintiffs shall be allowed up to and including thirty (30) days following the filing of any Motion to Dismiss to submit their Response, and Defendants shall be allowed to file any Reply within twenty (20) days thereafter.
6. If Defendants seek dismissal based upon the Securities Litigation Uniform Standards Act of 1998, 15 U.S.C. § 77(p), 78(bb) (f) ("SLUSA"), all discovery and other proceedings in the consolidated actions shall be stayed pursuant to 15 U.S.C. § 77z-1(b)(1) during the pendency of the Motion to Dismiss based upon SLUSA.

DATED: September 30, 2009

BY THE COURT:



CHRISTINE M. ARGUELLO
United States District Judge