

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

MAURICE JAMES SJOBLOM,
on behalf of himself and a class of employees
and/or former employees similarly situated,

ORDER

Plaintiff,

3:07-cv-00451-bbc

v.

CHARTER COMMUNICATIONS, LLC,
CHARTER COMMUNICATIONS (CCI),
INC. and CHARTER COMMUNICATIONS,
INC.

Defendants.

This is a civil action for monetary, declaratory and injunctive relief under the Fair Labor Standards Act, 29 U.S.C. §§ 201-219, and Wisconsin wage and hour laws, Wis. Stat. chs. 103 and 104 and §§ 109.01-109.11. Before the court is defendants' motion for clarification of this court's December 26, 2007 protective order prohibiting defendants from contacting potential class members without seeking prior consent of this court and fully disclosing the nature of the lawsuit and the class member's potential interest in it. Order entered December 26, 2007, Dkt. # 160.

Defendants ask the court to clarify whether the protective order applies only to defendants' attorneys or more broadly to defendants' managers, supervisors and human resources personnel. They argue that a broad interpretation is unjustified because corporate management did not act inappropriately in contacting potential class members and such an interpretation would bring defendants' business to a halt. In the alternative, defendants ask that their managerial and administrative employees be allowed to discuss payroll, work assignments, completing timesheets, and equipment and vehicles with Charter employees. Further, they have attached proposed responses to a list of sample questions that are being posed by employees about the lawsuit and request that the court allow managers, supervisors and human resources personnel to answer these questions. Dkt. #167, Exh. A.

Plaintiff asserts that the protective order applies to defendants' management and supervisory employees, arguing that direct communication from defendants' attorneys is equivalent to indirect communication through managers and supervisors. Although plaintiff has no objection to defendants' managers and supervisors discussing routine business matters with Charter employees who are potential class members, he contends that they should not discuss the lawsuit with potential class members. Instead, plaintiff proposes that managers respond to employee questions about the lawsuit with the following: "Charter may not comment on the pending lawsuit." Dkt. #159 at 2.

For purposes of this litigation, I agree with plaintiff that there is little difference between defendants' attorneys and other representatives. Although defendants' attorneys were the ones who improperly notified potential class members of the current lawsuit, they did not do so without the consent and assistance of management and supervisory personnel. Accordingly, the term "defendants" as used in the protective order means any and all individuals or entities acting on behalf of defendants, including but not limited to attorneys, investigators, managers, supervisors and human resources personnel.

I do not think it is necessary to prevent defendants' managerial or supervisory employees from communicating with potential class members about the lawsuit, as long as such communications are approved in advance by the court. In fact, permitting defendants' managers and supervisors to discuss the lawsuit in a neutral manner with potential class members will help insure that employees are receiving accurate and timely notice concerning the possible collective action. Hoffman-La Roche Inc. v. Sperling, 493 U.S. 165, 170 (1989). However, the protective order is not intended to halt all communications between defendants and their employees. For example, defendants may discuss payroll, work assignments, completing timesheets, and equipment and vehicle use with their employees, provided that these discussions do not address the current lawsuit. Obviously, the court cannot anticipate every potential discussion that defendants may wish to have with its

employees. If a potential topic of communication appears to relate to the current lawsuit, defendants should first clear it with this court.

I am approving defendants' proposed questions and answers with the following modifications:

- Add "You may be a potential class member" to the response to the fifth question, "What does this lawsuit have to do with me?"
- Delete the response to the sixth question, "If the technician wins the lawsuit, will I get money?" and replace with the following: "That is up to the court to decide."
- Replace the response to the eleventh question, "What do you think about the lawsuit?" with the following: "I am not a lawyer and cannot advise you about the lawsuit."
- Delete the response to the thirteenth question, "Can I trust that Charter did not violate the law?" and replace with the following: "That will be for the court to decide."

Further, if defendants receive questions from a potential class member about how to participate in the lawsuit or become a class member, a representative of defendants should direct the employee to contact plaintiff's counsel for information.

ORDER

IT IS ORDERED that defendants' motion is GRANTED in part and DENIED in part. This court's December 26, 2007 order is clarified to the following extent:

1. Defendants' request that the court's December 26, 2007 protective order be limited to defendants' attorneys is DENIED. The term "defendants" as used in the protective order means any and all individuals or entities acting on behalf of defendants, including but not limited to attorneys, investigators, managers, supervisors and human resources personnel;
2. Defendants' request that the court allow their managers, supervisors and human resources personnel to discuss routine business matters with Charter employees who are potential class members is GRANTED provided that these communications do not address the current lawsuit;
3. Defendants' managerial and supervisory employees are permitted to communicate with potential class members about the lawsuit, as long as such communications are approved in advance by the court; and

4. Defendants' proposed questions and responses are approved subject to the modifications outlined in this order.

Entered this 25th day of January, 2008.

BY THE COURT:

Barbara B. Crabb

BARBARA B. CRABB

District Judge