

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

BRIAN EGGEN and MARY EGGEN,
on behalf of themselves and all others
similarly situated,

Plaintiffs,

WESTCONSIN CREDIT UNION,

Defendant.

ORDER

14-cv-873-bbc

Plaintiffs Brian Eggen and Mary Eggen are suing defendant WESTconsin Credit Union under the Driver's Privacy Protection Act (18 U.S.C. §§ 2721-2725), and the common law of nuisance for disclosing plaintiffs' personal information in complaints filed in delinquency actions in small claims court. In an order dated February 26, 2016, dkt. #69, I granted plaintiffs' motion to certify the following class: "All individuals whose driver's license numbers defendant WESTconsin disclosed on or after December 16, 2010 in an action filed in Wisconsin circuit court to recover unpaid loan balances." In accordance with Fed. R. Civ. P. 23(c)(2)(B), I instructed the parties to prepare a class notice.

Under Fed. R. Civ. P. 23(c)(2)(B),

For any class certified under Rule 23(b)(3), the court must direct to class members the best notice that is practicable under the circumstances, including individual notice to all members who can be identified through reasonable effort. The notice must clearly and concisely state in plain, easily understood

language:

- (i) the nature of the action;
- (ii) the definition of the class certified;
- (iii) the class claims, issues, or defenses;
- (iv) that a class member may enter an appearance through an attorney if the member so desires;
- (v) that the court will exclude from the class any member who requests exclusion;
- (vi) the time and manner for requesting exclusion; and
- (vii) the binding effect of a class judgment on members under Rule 23(c)(3).

The parties have submitted a joint proposed notice that complies with most of these requirements, but not all of them. Dkt. #70. In particular, the notice does not include any information about the nature of the action or the class claims, issues and defenses. A potential class member is left to guess what the case is about, what the claims are and what defendant's position is. In addition, the parties have not provided any information to the court regarding the efforts they are taking to make sure that all the class members receive "the best notice that is practicable under the circumstances." Although the sample notice submitted by the parties shows that plaintiffs intend to mail notices to the class members, plaintiffs do not explain how they obtained the identities and mailing addresses of the class members and what plaintiffs have done to make sure that they have not omitted any class members from the notice. Accordingly, I will give the parties an opportunity to submit an amended class notice, along with the requested explanation to the court.

ORDER

IT IS ORDERED that the parties may have until March 31, 2016, to submit an amended class notice as described in this order. If the parties cannot agree on an amended notice, each side should submit its own proposed notice.

Entered this 24th day of March, 2016.

BY THE COURT:

/s/

BARBARA B. CRABB
District Judge