

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

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LAWRENCE G. RUPPERT and  
THOMAS A. LARSON, on behalf  
of themselves and all others similarly  
situated,

Plaintiffs,

ORDER

08-cv-127-bbc

v.

ALLIANT ENERGY CASH BALANCE  
PLAN,

Defendant.

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Defendant Alliant Energy Cash Balance Plan has moved for an order specifying that any damage award by this court will be offset by payments that defendant intends to pay the class members in accordance with its obligation under an Internal Revenue Service determination letter issued on February 23, 2011. Dkt. #442. Originally, plaintiffs opposed the motion but withdrew their opposition after I explained that the payments pursuant to the IRS letter would not affect plaintiffs' right to ask for attorney fees on the basis of the entire award to the class from either source (the IRS letter or this court's award of damages) or my

ability to grant attorney fees on that basis if plaintiffs were correct in arguing that they should be credited for both awards. Plaintiffs did not withdraw their motion for a protective order, dkt. #447, asking the court to bar defendant from communicating with class members about the payments defendant intends to make without obtaining court approval for the contents of any notice.

The offset motion will be granted, subject to the condition explained above. The motion for a protective order will be granted as well. Defendant is not to make any payments to class members until the court has determined the final form of the notice to the class explaining the IRS-directed payments.

Although plaintiffs asked the court to direct counsel to meet-and-confer on the contents of the notice, I agree with defendant's counsel that the likelihood of a productive consultation is slim to nonexistent. Instead, I set a schedule for plaintiffs to propose an amended version of the notice and for defendant to object to the proposed amendment, with the court making the final determination on the contents.

## ORDER

IT IS ORDERED that defendant Alliant Energy Cash Balance Fund's unopposed motion to offset against the damage award ordered by this court any funds paid to class members in accordance with the February 23, 2011 IRS determination letter is GRANTED,

as set forth in this order. FURTHER, IT IS ORDERED that plaintiff's motion for a protective order is GRANTED. Defendant is to refrain from making any such payments until the court has determined the final form of the notice to the class explaining the IRS-directed payments.

Entered this 27th day of May, 2011.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge