

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

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

Plaintiffs,

v.

ALLIANT ENERGY CASH
BALANCE PENSION PLAN,

Defendant.

ORDER

08-cv-127-bbc

A status conference was held in this remanded case on October 16, 2013. Plaintiffs appeared by Eli Gottesdiener and Steven Cohen. Defendant appeared by Amy Benson and Mark Casciari. Also participating was Dan Culhane.

Before the conference, plaintiffs moved for leave to file a motion for summary judgments on a new theory of recovery, contending that good cause exists to allow the filing of such a motion by class members who received an initial payment from defendant more than six years before this case was filed. According to plaintiffs' counsel, these class members should be allowed to argue that defendant's 2011 payments to the class members must be adjusted to reflect the fact that the class members did not have an opportunity to select the year in which their lump sum payment was to be paid. This matters because the value of the lump sum payments varied.

Plaintiffs' motion was denied on the ground that plaintiffs had never asserted it in any complaint, although they could have done so. After remand is too late to raise new theories of prosecution.

The remaining matters to be resolved include the appointment of a new representative or representatives. Plaintiffs may have until October 21, 2013, in which to submit the name or names of proposed representatives of Class A, together with a declaration setting forth each representative's full name, the date the proposed representative received his or her lump sum distribution, confirmation of the person's willingness to serve as representative and confirmation that the proposed representative has not assigned his or her claim and has not filed for bankruptcy since receiving the distribution.

Defendant may have until November 4, 2013, in which to file any objections to the proposed class representative. If it does object, plaintiffs may have until November 12, 2013 in which to respond.

The calculation of damages is to be done by plaintiffs, who may have until November 13, 2013 in which to provide spread sheets to defendant's counsel, showing the specific amount to be distributed to each class member, the method used to calculate the damages, the amount to be deducted from the distribution for the class member's share of attorney fees and costs and the method used for that calculation. Defendant may have until December 9, 2013, in which to object to the damage calculations.

Plaintiffs are also to provide spread sheets to the class representatives no later than November 13, 2013, so that they have an opportunity to review the damages calculation as well as the fee request and the manner in which the fees and costs are to be deducted from

the class members' awards. The class representatives may have until December 16, 2013 to file any objections to the calculations and deductions.

Entered this 16th day of October, 2013.

BY THE COURT:
/s/
BARBARA B. CRABB
District Judge