

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

Several motions are pending, including defendant Alliant Energy Cash Balance Pension Plan's motion for reconsideration of its statute of limitations defense, dkt. #470, and plaintiffs Lawrence Ruppert's and Thomas Larson's motion for leave to file a supplemental complaint to include claims challenging a May 2011 amendment to the plan. Dkt. #478. In reviewing the parties' submissions on these motions, I discovered that several issues had not been addressed adequately.

First, with respect to defendant's motion for reconsideration of its statute of limitations defense, I did not allow defendant to file a reply brief. However, in reviewing

plaintiffs' opposition brief, I realized that plaintiffs raised arguments that defendant had not anticipated in its opening brief. For example, plaintiffs argue that the statute of limitations period could not begin running before class members received their lump sum payment because they were not injured until then for the purpose of obtaining standing to sue. Dkt. #474, at 10-12. Accordingly, I will give defendant an opportunity to file a short reply brief.

Despite extensive briefing on plaintiffs' motion to supplement the complaint, the parties failed to develop arguments on several key issues. Accordingly, I am giving each side an opportunity to file a supplemental brief that addresses the following issues: (1) the extent to which the May 2011 amendment moots plaintiffs' claims under the 1998 plan; (2) the extent to which the May 2011 amendment created a new cause of action and a new statute of limitations; and (3) in the event that I grant plaintiffs' motion to supplement the complaint, what additional steps will need to be taken to bring the case to resolution in this court. Although the parties touched on each of these issues in their briefs, both sides' briefs were undeveloped and lacking relevant authority.

With respect to the third issue, the parties should be as specific in possible in identifying any additional discovery that would be needed, motions they would anticipate filing, hearings that would have to be held, rulings they will need from the court and any other scheduling issues they would need resolved. The parties should submit a proposed schedule, relying on an assumption that the motion for reconsideration and the motion to

supplement will be resolved by December 1, 2011.

Also before the court are defendant's motion to "strike" parts of plaintiffs' reply brief in support of their motion to supplement the complaint, or, in the alternative to file a surreply brief, dkt. #488, and plaintiffs' motion to file a "corrected and revised" reply brief in support of their motion to file a supplemental complaint. Dkt. #489. Because I am allowing both sides to file supplemental briefs, I will accept plaintiffs' revised reply brief and grant defendant's motion in the alternative to file a surreply brief, which defendant should incorporate into the supplemental brief requested by the court.

ORDER

IT IS ORDERED that

1. Defendant Alliant Energy Cash Balance Pension Plan may have until November 14, 2011, to file a reply brief in support of its motion for reconsideration. Dkt. #470.
2. The parties may have until November 15, 2011, to file a supplemental brief on plaintiffs Lawrence Ruppert's and Thomas Larson's motion for leave to file a supplemental complaint, dkt. #478, addressing the issues identified in this order.
3. Plaintiffs' motion to file a revised reply brief, dkt. #489, is GRANTED.

4. Defendant's motion to file a surreply brief, dkt. #488, is GRANTED.

Entered this 8th day of November, 2011.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge