

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
WESTERN DIVISION**

JAMES DUNHAM, on behalf of himself
and all others similarly situated

PLAINTIFF

v.

NO. 4:09CV00086 JLH

PORTFOLIO RECOVERY ASSOCIATES, LLC

DEFENDANT

ORDER

James Dunham has filed a motion to compel and for sanctions as a result of the defendant not producing information responsive to his first interrogatories and requests for production of documents, which the Court previously ordered produced. Dunham also filed a motion for hearing. The hearing was conducted by telephone on April 9, 2010. James A. Streett and Joe P. Leniski appeared for James Dunham. Donald S. Maurice, Jr., and Keith M. McPherson appeared for Portfolio Recovery Associates.

The attorneys informed the Court at the hearing that the requests for information stated in the interrogatories and requests for documents had been further specified by correspondence between them. At this time, Portfolio Recovery Associates has identified 1,800 files that may contain information responsive to the interrogatories and requests for documents. Portfolio Recovery Associates is willing to produce those files subject to an appropriate protective order. Mr. Maurice informed the Court that Portfolio Recovery Associates would have to retrieve the files from its electronic data, convert them to a PDF format, and then print them before producing them. Portfolio Recovery Associates has estimated that it could produce approximately ten to fifteen files per day.

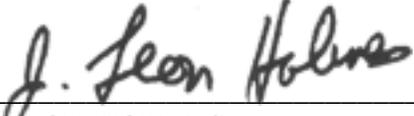
Based on all of the information submitted during the hearing, the Court has concluded that the production of the 1,800 files could be completed and should be completed within a period of 90 days from the entry of this Order. Portfolio Recovery Associates is therefore ordered to produce the 1,800 files on a rolling basis, i.e., as the files can be retrieved and printed, rather than waiting

until the end to produce all of the documents at one time; and the production must be completed within 90 days from the entry of this Order. The Court denies the motion for sanctions based on Mr. Maurice's representations as to the good faith effort of Portfolio Recovery Associates in trying to identify files responsive to the discovery requests. However, failure to complete the production within 90 days from the entry of this Order may result in sanctions, including but not limited to fines commensurate with the Court's determination of Portfolio Recovery Associates's culpability in failing to produce the documents in a timely fashion.

The Court hereby orders that the attorneys for the plaintiff maintain the confidentiality of the information produced and use that information only for the purpose of filing a motion for class certification. The Court orders that anything filed that contains consumer specific information must be filed under seal. The attorneys for the plaintiff may provide the information to an expert assisting them in pursuing class certification, but only after the expert signs a statement acknowledging that he is aware of this Order and agrees to be bound by it. The attorneys for the plaintiff must maintain that statement in their files. At the conclusion of this litigation, the attorneys for the plaintiff must shred all copies of the documents obtained pursuant to this Order and must provide Portfolio Recovery Associates with certification within 30 days from the entry of a final order or final judgment stating that all such copies have been shredded.

For the reasons stated, the motion to compel and for sanctions is granted in part and denied in part. Document #50. The motion for a hearing has been granted. Document #52.

IT IS SO ORDERED this 9th day of April, 2010.



J. LEON HOLMES
UNITED STATES DISTRICT JUDGE