

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

JAMES BOWMAN)	
and MELISSA GIBSON,)	
)	
Plaintiffs,)	
)	
v.)	CASE NO. 1:11-cv-00593-RLY-TAB
)	
INTERNATIONAL BUSINESS MACHINES)	
CORPORATION, ACS HUMAN SERVICES,)	
LLC, and PHOENIX DATA CORPORATION,)	
ARBOR E&T, LLC,)	
)	
Defendants.)	

ORDER ON FEBRUARY 7, 2012, PRETRIAL CONFERENCE

The parties appeared by counsel on February 7, 2012, for a pretrial conference and the Court heard argument on case management and discovery-related issues and motions. At the heart of the argument was Plaintiffs' motion to extend Case Management Plan deadlines [Docket No. 135], which seeks to extend all CMP deadlines by 90 days. Defendant ACS does not object to a "reasonable" extension of CMP deadlines [Docket No. 138], but the remaining Defendants argue that only minimal CMP modifications are appropriate. [Docket No. 137.]

The pretrial conference revealed that ACS has not fully responded to Plaintiffs' discovery. This is due, it appears, primarily to the fact that ACS's discovery responses must first be vetted through FSSA. This process is occurring in stages, and at the time of the conference counsel represented that Phase 1 of three phases was approximately 80% completed. The discovery process is expected to produce well in excess of one million pages of discovery

responses. Plaintiffs' counsel also stated that Plaintiffs still are awaiting a privilege log from IBM, emphasizing to the Court the importance of a privilege log.

Based upon the foregoing, the Court reluctantly concludes that the enlargements to the CMP requested by the Plaintiffs are necessary to the orderly management of this action, even though it necessarily involves some delay. Accordingly, Plaintiffs' motion to extend CMP deadlines [Docket No. 135] is granted, and all CMP deadlines are enlarged by 90 days.

On a related note, Defendant Phoenix Data Corporation filed a motion to enlarge the deadline to respond to Plaintiffs' discovery requests to March 5, 2012. That motion is granted. However, in that motion Phoenix's counsel represented to the Court, "Counsel has been unable to reach counsel for the Plaintiffs..." with respect to whether Plaintiffs would object to Phoenix's motion. At the pretrial, however, Plaintiffs' counsel orally represented to the Court that Phoenix's counsel made no attempt to contact Plaintiffs' counsel regarding this motion. Obviously, both of these representations cannot be accurate, and the Court is concerned about what appear to be inaccurate representations—either in Phoenix's motion or in Plaintiffs' counsel's oral representation at the conference. Counsel for Phoenix and the Plaintiffs shall file a statement (or separate statements, if necessary) by March 2, 2012, explaining this discrepancy.

Finally, the conference also addressed IBM's request for certain discovery information from Plaintiffs. First, IBM requested a privilege log. Given Plaintiffs' counsel's prior representation (noted above) concerning the importance of a privilege log, Plaintiffs cannot seriously argue that they should be excused from the sometimes burdensome requirement of providing a privilege log. Accordingly, Plaintiffs shall provide the requested privilege log by March 9, 2012. Also by this date, Plaintiffs shall provide all additional information available

regarding the identities of the potential class members. Also by March 9 Plaintiffs shall produce all medical/damages information regarding the Plaintiffs that the Defendants have requested. Finally, Defendants shall be permitted until April 9, 2012, to conduct discovery regarding the class members and their claims.

Dated: 02/23/2012

A handwritten signature in black ink, appearing to read 'T. Baker', is written above a horizontal line.

Tim A. Baker
United States Magistrate Judge
Southern District of Indiana

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