

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION

MICHAEL P. and SHELLIE GILMOR,)	
et al.,)	
)	
Plaintiffs,)	
)	
vs.)	Case No. 10-0189-CV-W-ODS
)	
PREFERRED CREDIT CORP., et al.,)	
)	
Defendants.)	

ORDER DIRECTING PARTIES TO (1) COMPLY WITH 28 U.S.C. § 1715 AND (2)
SUBMIT A PROPOSED SUMMARY NOTICE

1. Pending is a motion seeking preliminary approval of a partial settlement on behalf of a class. The parties indicate they do not believe the notice provisions of 28 U.S.C. § 1715 apply and they therefore do not perceive a need to comply with them.

The Court does not agree with the parties' assessment. Section 1715 applies to class actions, and as that term is defined (in section 1711(2)), it does not matter whether jurisdiction is based on the Class Action Fairness Act or not. While sections 1711-15 were passed by Congress as part of CAFA, they address Congress' general concerns about *all* class action settlements, and their applicability is not dependant on CAFA's jurisdictional provisions. This is significant for a variety of reasons, not the least of which is that the Court cannot give final approval "earlier than 90 days after the later of the dates on which the appropriate Federal official and the appropriate State official are served with the notice required," 28 U.S.C. § 1715(d), making it difficult to determine an appropriate time to have the final approval hearing. The parties are directed to comply with the notice provisions of 28 U.S.C. § 1715(d) and file a certification when they have done so.

2. The Court has reviewed the Notice (also referred to as "the Class Mail Notice") the parties propose sending class members. The Court directs the parties to submit a jointly proposed summary of the notice that will be sent to the class members along with

the Class Mail Notice. The Summary should employ “plain English” as much as possible, be devoid of legal terms and jargon, and identify (1) the recipient’s options, (2) the expected benefits, and (3) a means for obtaining additional information.

Once these tasks have been completed, the Court will enter an order regarding the motion for preliminary approval of the settlement.

IT IS SO ORDERED.

DATE: April 4, 2012

/s/ Ortrie D. Smith
ORTRIE D. SMITH, SENIOR JUDGE
UNITED STATES DISTRICT COURT