

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA**

<p><b>DIMAS LOPEZ, et al.,</b></p> <p style="text-align: center;"><b>Plaintiffs,</b></p> <p style="text-align: center;"><b>vs.</b></p> <p><b>TYSON FOODS, INC.,</b></p> <p style="text-align: center;"><b>Defendant.</b></p>	<p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p>	<p><b>8:06CV459</b></p> <p><b>ORDER</b></p>
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This matter is before the court on the defendant's Objection to Plaintiffs' Notice to the Court of When Class Notice will be Sent and Deadlines to Opt-in and Opt-out of the Respective Classes are Established ([Filing No. 152](#)). The defendant did not file a brief in support of the objection, nor did the plaintiffs respond.

On June 26, 2008, the court a telephone conference with counsel regarding deadlines for this case and two other related matters. During the telephone conference, the court allowed the plaintiffs until mid-July to file information with the court about when class notice would be sent to prospective class members, thus establishing an opt-in deadline. On July 8, 2009, the plaintiffs filed a notice stating the Class Notice would be mailed to all prospective class members on July 16, 2009. **See** [Filing No. 150](#). The plaintiffs attached the Class Notice to the document. *Id.*

On July 14, 2009, the defendant filed its objection. The defendant argues the July 8, 2009, notice is insufficient because the content of the court notice does not comply with the requirements imposed by the undersigned magistrate judge during the June 26, 2008, conference call. Specifically, the defendant states the plaintiffs were required to explain why they had missed the original deadline for issuing class notice, which was January 2, 2009. **See** [Filing No. 138](#) - Scheduling Order; [Filing No. 141](#) - Order Approving Class Notice. Accordingly, the defendant objects to issuance of the Class Notice on July 16, 2009, because the plaintiffs have failed to show good cause for their failure to timely issue class notice. The plaintiffs failed to comply with the court's requirement. The plaintiffs shall have five business days to file a statement, in the form of an affidavit, stating why the plaintiffs missed the original deadline for issuing the Class Notice. However, the court will not delay or stay issuance of the notice at this time. Upon consideration,

**IT IS ORDERED:**

1. The defendant's Objection to Plaintiffs' Notice to the Court of When Class Notice will be Sent and Deadlines to Opt-in and Opt-out of the Respective Classes are Established ([Filing No. 152](#)) is granted as set forth herein.

2. The plaintiffs shall have to **on or before August 10, 2009**, to file a statement as described above. Absent compliance with this order, the court may impose sanctions on the plaintiffs to the extent allowed by [Fed. R. Civ. P. 37](#).

DATED this 3rd day of August, 2009.

BY THE COURT:

s/Thomas D. Thalken  
United States Magistrate Judge