

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

IN RE: T-MOBILE CUSTOMER DATA)	
SECURITY BREACH LITIGATION,)	MDL No. 3073
)	
)	Master Case No. 4:23-MD-03073-BCW
ALL ACTIONS)	

ORDER

The Court held an initial pretrial conference in this matter on October 4, 2023. The Court, being duly advised of the premises, in consideration of the parties’ Joint Proposed Agenda (Doc. #14), rules as follows.

Consistent with the Court’s Order Setting Initial Pretrial Conference and General Order on Practice and Procedure (Doc. #4) and the parties’ Joint Proposed Agenda for the Initial Pretrial Conference (Doc. #14), the initial pretrial conference hearing included discussion of the following topics: (a) a proposed discovery plan and anticipated timeline; (b) anticipated motions and proposed briefing schedules; and (c) the parties’ recommendations regarding appointment of leadership counsel and related timeline. (Doc. #20). Based on the Court’s discussion with the parties during the initial pretrial conference, the Court sets forth the following case management deadlines and procedures.

A. Appointment of Leadership Counsel

Plaintiffs propose appointment of 3-4 lawyers as lead counsel and, if necessary, an Executive Committee of 4-6 lawyers, and if necessary, a separate Liaison Counsel. (Doc. #14). Plaintiffs propose that motions for appointment to a leadership position shall be filed on or before October 13, 2023, at 5:00 p.m. CST. Defendants take no position on this issue.

IT IS HEREBY ORDERED any motions for appointment to a leadership position as Plaintiffs' counsel shall be filed on or before **Friday, October 13, 2023, at 5:00 p.m. CST.** Motions shall be limited to 7 double-spaced pages, 12-point font, and may be filed with firm resumes or other supporting materials not exceeding 10 additional pages. No responses or replies will be permitted. As previously set forth, the Court will consider the following factors in appointing leadership counsel: willingness and ability to commit to a time-consuming process, counsel's ability to work cooperatively, any professional experience in litigation of this type, existing access to resources to advance the litigation in a timely manner, a contribution to a leadership team that adequately reflects diversity of legal talent, serves the requirements of the case, and achieves diversity as to gender, national origin, geography, years of practice, age, and other factors.

B. Preliminary Discovery Plan

Plaintiffs propose fact discovery should be triggered by the Court's Order appointing Plaintiffs' leadership counsel. Specifically, Plaintiffs propose the parties will submit a joint proposed protective order and proposed order governing ESI within ten days of the Order appointing leadership counsel, Defendants will produce third-party forensic reports within ten days of the Order, and the parties will exchange initial disclosures within fifteen days of the Order. Further, Plaintiffs propose the parties will meet and confer as to arbitration-related discovery as needed, with other discovery deadlines to be determined after the Court rules on Defendants' anticipated motions to dismiss and/or to compel arbitration.

Defendants propose discovery should be triggered by the Court's Order(s) resolving Defendants' anticipated motions to compel arbitration. Specifically, Defendants propose Plaintiffs provide "fact sheets" with the filing of the master consolidated complaint so that Defendants can

identify any arbitration agreements applicable to the named Plaintiffs. Defendants further propose that in the event they do not move to compel arbitration as to all named Plaintiffs' claims, the parties will meet and confer and file within thirty days of the filing of the master consolidated complaint a joint proposal for the exchange of discovery and for the submission of a proposed protective order and ESI order.

IT IS HEREBY ORDERED discovery is STAYED until the Court resolves any motions to dismiss challenging subject matter jurisdiction and/or motions to compel arbitration filed by Defendants in response to the master consolidated complaint. It is further

ORDERED no fact sheets shall be required. Consistent with Plaintiffs' representations in the joint proposed agenda, if, based on the allegations in the master consolidated complaint Defendants cannot identify the named Plaintiffs in their records, the parties shall meet and confer to discuss what information may be required for Defendants to identify the named Plaintiffs for purposes of Defendants' anticipated motion(s) to compel arbitration. It is further

ORDERED in the event Defendants do not file motions to compel arbitration for all named Plaintiffs' claims, the parties shall file, within thirty days of the filing of the master consolidated complaint, a joint proposed scheduling order setting forth preliminary discovery deadlines, including for the exchange of initial disclosures, the production of any third-party forensic reports related to the data breach at issue, a joint proposed protective order, and joint ESI order. All other deadlines shall be determined after the Court resolves any motions to dismiss challenging subject matter jurisdiction and/or motions to compel arbitration.

C. Periodic Conferences

Consistent with the parties' joint proposal, the Court intends to hold periodic status conferences with counsel throughout the course of this case. The status conferences will be

scheduled roughly every 30 days, with the parties to file a joint proposed agenda for the conference one week in advance. The parties' joint proposed agenda may include indication that the parties have no issues requiring resolution by the Court, such that the regularly scheduled conference may be removed from the Court's calendar. Unless otherwise indicated, all status conferences will be held by telephone through the Court's conference call line at 1-877-336-1839; access code 6328169.

D. Briefing Schedule

IT IS HEREBY ORDERED the above-captioned litigation shall proceed pursuant to the following schedule, unless otherwise modified by subsequent Court Order.

Any motions for appointment as leadership counsel for Plaintiffs shall be filed on or before **October 13, 2023, at 5:00 p.m. CST.**

Plaintiffs shall file a master consolidated complaint within 45 days of the Court's Order appointing Plaintiffs' leadership counsel.

Defendants shall answer or otherwise respond to the master consolidated complaint, i.e., file any motion to dismiss under Fed. R. Civ. P. 12(b) and/or motion to compel arbitration within 45 days.

Plaintiffs shall respond to any motion to dismiss within 45 days thereafter.

Plaintiffs shall respond to any motion to compel arbitration by the later of: (a) 45 days after Defendants file the motion to compel arbitration; or (b) 14 days after the close of arbitration discovery.

Defendants' replies to any motion to dismiss and/or motion to compel arbitration shall be filed within 30 days of the date on which Plaintiffs file their responsive suggestions.

Discovery is STAYED in this matter, pending ruling by the Court on any motion(s) challenging subject matter jurisdiction and any motion(s) to compel arbitration. In the event Defendants do not seek to compel arbitration for all named Plaintiffs, within thirty days of Plaintiffs' filing of the master consolidated complaint, the parties shall file a joint proposed scheduling order setting forth preliminary discovery deadlines, including for the exchange of initial disclosures, the production of any third-party forensic reports related to the data breach at issue, a joint proposed protective order, and joint ESI order. All other deadlines shall be determined after the Court resolves any motion(s) to dismiss challenging subject matter jurisdiction and motion(s) to compel arbitration.

IT IS SO ORDERED.

DATE: October 6, 2023

/s/ Brian C. Wimes
JUDGE BRIAN C. WIMES
UNITED STATES DISTRICT COURT