UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

FEDERAL TRADE COMMISSION, and STATE OF FLORIDA, OFFICE OF THE ATTORNEY GENERAL, DEPARTMENT OF LEGAL AFFAIRS, Plaintiffs, v. LIFEWATCH INC., a New York corporation, also d/b/a LIFEWATCH USA and MEDICAL ALARM SYSTEMS, and EVAN SIRLIN, individually and as an officer or manager of Lifewatch Inc., Defendants.	Case No. 15cv5781 Judge Feinerman Magistrate Judge Gilbert

JOINT SEPTEMBER 15, 2015 STATUS REPORT OF DISCOVERY FOR THE PRELIMINARY INJUNCTION HEARING

Plaintiffs, Federal Trade Commission and State of Florida, Office of the Attorney General, Department of Legal Affairs, and Defendants Lifewatch, Inc., a New York corporation, and Evan Sirlin, individually and as an officer or manager of Lifewatch, Inc., submit the following Joint Status Report of Discovery for the Preliminary Injunction Hearing pursuant to this Court's August 27, 2015 order (Doc. 59).

Expedited Written Discovery

Plaintiffs propounded 3 interrogatories and 7 documents requests on Defendants on September 1, 2015. Defendants' responses are not due until October 1, 2015, and Defendants have not yet responded.

Defendants propounded 4 interrogatories and 62 document requests on Plaintiffs on July 31, 2015. Plaintiffs responded to these interrogatories on August 28, 2015. However, Defendants contend that Plaintiffs failed to provide material information requested in the interrogatories and will attempt to meet and confer with Plaintiffs' counsel to resolve the discovery issues presented by Plaintiffs' answers.

Plaintiffs responded to Defendants' Requests For Production of Documents on September 11, 2015. On September 14, 2015, Plaintiffs produced over 5500 documents, which Plaintiffs assert include communications with individuals who provided declarations in support of Plaintiffs' Motion as well as with other third parties, in addition to over 90,000 consumer complaints. Plaintiffs produced these materials with the parties' understanding that such materials will be protected by the protective order currently being considered by the Court. However, Defendants contend that Plaintiffs' responses are defective and are prepared to meet and confer with Plaintiffs' counsel in order to attempt to work through open discovery issues.

Expedited Depositions

On September 3, 2015, pursuant to this Court's direction, Defendants identified by letter to Plaintiffs the individuals they anticipate deposing based on the declarations submitted by Plaintiffs in support of Plaintiffs' Motion. Defendants identified the following 16 individuals from the more than 80 declarations submitted by Plaintiffs: Robert C. Menjivar (PX 1 – FTC Investigator), Joseph F. Einikis III (PX 80 -- FTC Investigator), Mirasasha Velez (PX 4 – Florida Department of Agriculture and Consumer Services Senior Financial Investigator), Bill Smith (PX 6 – Better Business Bureau Investigator), Susan Cuomo (PX 7 – Better Business Bureau Senior Manager), Christopher Hendriksen (PX 12 – CEO of VRI, Inc.), Kenneth Gross (PX 13 – Executive Chairman of Connect America.com, LLC), Michael Hilgar (PX 14 – Defendant in

FTC v. Worldwide Info Servs. Inc.), Joseph Settecase (PX 15 – Defendant in *FTC v. Worldwide Info Servs. Inc.*), Cathy Ann Amberson (PX 65 – Former employee of telemarketer), Brick Kane (PX 16 – CEO of the Receiver in *FTC v. Worldwide Info Servs. Inc.*), Barry Gates (PX 35 & 71 – Consumer), William James (PX 41 – Consumer), Paul deLoca (PX 31 – Consumer), Diana Mey (PX 50 – Consumer), and Les Steinmetz (PX 76 – Former Lifewatch Consultant). On September 11, 2015, Plaintiffs advised that they object to all of the depositions proposed by Defendants except the depositions of Settecase, Hilgar, and Amberson. Defendants do not agree that they should be limited to deposing 3 of the nearly 80 people whose declarations have been submitted by Plaintiffs for the facts on which Plaintiffs' Motion is predicated.

Protective Order

All parties agree that the entry of a protective order is appropriate but differ on the terms of that order. The parties have submitted competing drafts of the protective order to the Court.

Sealed Document

Pursuant to the Court's September 8, 2015, order (Doc. 64), Plaintiffs have sent Defendants a proposed redacted version of Doc. 33-2, which includes redacting the amounts paid to each telemarketer, but preserving the telemarketers' identities. Defendants are currently reviewing the redacted version of the document.

Meet and Confer

Defendants have indicated a desire to meet and confer over several outstanding discovery issues. While Plaintiffs do not agree that, given the preliminary injunction context, a meet-and-confer is required by Federal Rule of Civil Procedure 37, Plaintiffs offered to make themselves available at Defendants' convenience to discuss these issues prior to the hearing on Thursday, September 17, 2015, in an attempt to resolve any issues expeditiously.

Defendants believe a meet and confer concerning the discovery issues presented by Plaintiffs' discovery responses is required. In light of the fact that Defendants could not access any documents produced by Plaintiffs until September 14 and will not have a meaningful opportunity to review Plaintiffs' responses in advance of the September 17 status, Defendants have proposed a meet and confer to address the discovery issues to take place on Monday, September 21, 2015.

Respectfully submitted,

Dated: September 15, 2015

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CERTIFICATE OF SERVICE

I, David A. O'Toole, hereby certify that on September 15, 2015, I electronically filed **JOINT SEPTEMBER 15, 2015 STATUS REPORT OF DISCOVERY FOR THE PRELIMINARY INJUNCTION HEARING,** with the Court using the CM/ECF system, which will automatically send copies to any attorney of record in the case.

Respectfully Submitted,

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