

2003 WL 23200374

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United States District Court,  
W.D. Wisconsin.

David BLIHOVDE, Travis Brecher and Renee  
Houser (formerly known as Renee Jensen),  
Individually, and on behalf of all others similarly  
situated, Plaintiffs,

v.

ST. CROIX COUNTY, WISCONSIN, Dennis D.  
Hillstead, individually and in his capacity as the  
St. Croix County Sheriff, Karen Humphrey,  
individually, and in her capacity as “Jail Captain”  
of the St. Croix County Jail, Officer Mark Volz of  
the North Hudson Police Department, Kristen  
Anderson, individually and in her capacity as a St.  
Croix County Deputy Sheriff, Terry Larson,  
individually and in his capacity as St. Croix County  
Deputy Sheriff, Lisa Opel, individually and in her  
capacity as a St. Croix County Deputy Sheriff,  
Shelby Lane, individually and in her capacity as a  
St. Croix County Deputy Sheriff and Deputy  
Sheriffs John and Jane Does 1 through 30,  
individually and in their capacities St. Croix  
County Deputy Sheriffs, Defendants.

No. 02-C-450-C. | April 25, 2003.

**Attorneys and Law Firms**

Vincent J. Moccio, for Plaintiffs.

Raymond J. Pollen, Crivello, Carlson & Mentkowski,  
Milwaukee, WI, for Defendants.

**Opinion**

**OPINION AND ORDER**

CRABB, J.

\*1 In an order dated February 13, 2003, I conditionally certified this case as a class action and I directed counsel for plaintiffs to prepare a proposed notice to all the members of the class for the court’s approval. Counsel for plaintiffs has submitted two proposed notices: one for adult class members and one for minor class members. In addition to providing the information contained in the notice for adult members, the notice for minor class members notifies the minors that because their arrest records are confidential, they must notify class counsel in writing of their wish to make their arrest records

available, if they so desire. Defendants have not presented any objections to either notice.

Under Fed.R.Civ.P. 23(c)(2), a class action notice must be “reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action.” *Phillips Petroleum v. Shutts*, 472 U.S. 797, 812, 105 S.Ct. 2965, 86 L.Ed.2d 628 (1985) (quoting *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 70 S.Ct. 652, 94 L.Ed. 865 (1950)). In addition, the notice must advise each member that (1) the court will exclude the member from the class if the member so requests by a specified date; (2) the judgment will include all members of the class who do not request exclusion; and (3) any member who does not request exclusion may enter an appearance through counsel. Fed.R.Civ.P. 23(c)(2).

In this case, counsel for plaintiffs have chosen to send notice individually to all class members. This is the “best notice practicable under the circumstances” when it can be done through “reasonable effort.” Fed.R.Civ.P. 23(c)(2). Notice will be sent directly to those class members who were adults at the time of their arrest. Because counsel for plaintiffs has obtained the names and addresses of the adult class members through arrest records and because state law makes arrest records for minors confidential, counsel for plaintiffs will send notice for the minors to the St. Croix County Sheriff’s Department, which will then forward the notice to each class member who is a minor.

The contents of both proposed notices satisfy the requirements of Rule 23. The notices explain that class members may opt out of the class if they contact class counsel by June 15, 2003, that failure to opt out of the class will mean that the class member’s claim “will be determined in this lawsuit and cannot be presented in any other lawsuit” and that class members may “seek the advice and guidance” of their own lawyer. Accordingly, I will approve the proposed notice with the following changes. The date by which class members may opt out of the class will be changed to July 14, 2003, and the date of trial will be changed to October 27, 2003.

**ORDER**

IT IS ORDERED that plaintiffs’ proposed class notice is APPROVED with the changes indicated above. The court has included with this order a copy of the revised notices. Counsel for plaintiffs should make copies and mail the notices promptly. The St. Croix County Sheriff’s Department should mail the notices to the minor class members as soon as possible upon receiving the notices from plaintiffs.

