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United States District Court, N.D. Illinois, Eastern Division.

William JONES, et al., Plaintiffs,
v.
Otis R. BOWEN, Defendant.

No. 87 C 7419. | Oct. 3, 1988.

Opinion

MEMORANDUM OPINION AND ORDER

CONLON, District Judge.

***1** On July 21, 1988, this court entered an order granting plaintiffs' motion for class certification. Defendant Otis Bowen, Secretary of Health and Human Services (the "Secretary"), now moves for clarification of the order. He raises three points concerning the class definition.

First, the Secretary suggests that plaintiff Gloria Coe is disqualified from representing the class because she obtained a duplicate social security card prior to certification of the class. As with former putative class representatives William Jones and Jeanette Poe whose injuries were cured prior to the time of certification, Gloria Coe was not a member of the class at the time of certification. *See Davis v. Ball Memorial Hospital, Inc.,* 753 F.2d 1410, 1420 (7th Cir.1985) (named representatives of a class must be members of the class at the time of certification). Accordingly, Gloria Coe is dismissed. For purposes of clarification, only those persons, and their dependents and survivors, who have not obtained original SSNs, new SSNs or duplicate cards as of July 21, 1988, shall be included in the class. Subpart d. of the class definition contained in this court's order of class certification shall be amended accordingly. Memorandum Opinion and Order, dated July 21, 1988, at 14.

Second, the Secretary suggests that class members who are residents of states in Region V other than Illinois will not be represented adequately because all named representatives are residents of Illinois. There has been no showing that the Secretary implements different procedures in the administration and denial of SSNs to residents in Illinois, Indiana, Michigan, Minnesota, Ohio or Wisconsin. The named representatives, like every other class member, have been denied procedures to contest the denial of SSNs, duplicate social security cards or different SSNs to correct a scrambled account. Therefore, their claims "have the same essential characteristics as the claims at large." *De La Fuente v. Stokely–Van Camp, Inc.,* 713 F.2d 225, 232 (7th Cir.1983). Further, as plaintiffs correctly note, nationwide classes have been certified without the presence of a named representative from each state. Plaintiffs' Response at 5; *see, e.g., Califano v. Yamasaki,* 442 U.S. 682, 701–03 (1979). Accordingly, there is no need to add as named representatives residents of states in Region V other than Illinois.

Third, the Secretary urges that the claims of persons seeking new SSNs based on a scrambled account are not typical or common with the claims of persons who were denied original SSNs or duplicate cards. The Secretary notes that other regulatory measures are taken in an attempt to correct the problem of a scrambled earnings discrepancy, and that the issuance of a different SSN is a "last resort." Defendant's Memo. at 6. Regardless of the procedure by which these individuals become applicants for a different SSN, they—like any other applicant for a SSN or duplicate card—are not afforded a procedure to contest the denial of their request. As plaintiffs explain, scrambled account applicants merely seek a type of duplicate card that is created by separating two wage earnings records from one number, and assigning the applicant's wages to a second (new) number. Plaintiffs' Response at 6 n. 5. Therefore, as defined in the order of class certification, the class shall include unsuccessful applicants (and their dependents and survivors) for initial SSNs, duplicate social security cards or different SSNs to correct a scrambled account. Class members must not have obtained original SSNs, new SSNs or duplicate cards as of July 21, 1988. *See* Memorandum Opinion and Order, dated July 21, 1988, at 13–14.