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## \$11.2M Ashley Madison Data Breach Deal Gets Go-Ahead

By **Kat Greene**

Law360, Los Angeles (July 21, 2017, 10:38 PM EDT) -- A Missouri federal judge on Friday preliminarily approved a proposed \$11.2 million deal to end a suit over online dating site Ashley Madison's 2015 data breach, giving the deal a nod just days after its proposal and the same day as a hearing on the subject.

The proposed settlement would resolve multidistrict litigation that followed the adultery hub's widespread leak of personal and financial information of around 37 million users in the summer of 2015. The plaintiffs and Ruby Life Inc., the parent company of Ashley Madison formerly known as Avid Dating Life Inc., confirmed the settlement in a joint statement **issued July 14**.

U.S. District Judge John A. Ross said in Friday's order that, having heard the presentations at that day's hearing, he found good cause to grant preliminary approval.

The settlement, Judge Ross wrote, "has no obvious deficiencies; does not improperly grant preferential treatment to the settlement class representatives or segments of the class; and appears to be fair, reasonable and adequate."

A final hearing on the deal is scheduled for November, court records show.

Multiple suits were filed against Avid in the wake of the leak alleging that Avid failed to secure the plaintiffs' confidential information. The suits said Avid falsely advertised a "full delete removal" service that didn't actually purge user account information from the website's database, and used artificial intelligence to fool men into believing they were interacting with women when they were in fact chatting with bots.

The MDL was created in December 2015. Since then, the Federal Trade Commission worked with 13 states to resolve similar claims and reached a \$17.5 million settlement — but the deal yielded a \$1.657 million payment from Avid based on the company's ability to pay, according to court documents.

The settlement funds as outlined in Friday's preliminarily approved deal will be available to reimburse customers who paid for "full delete" services, reimbursements for credits on the website they may have pre-purchased, and any losses of up to \$2,000 caused by the data breach. Class members will be able to receive a maximum of \$3,500 each, according to settlement documents.

The proposed settlement doesn't give an estimate of the number of claims that will be filed but says there are millions of potential class members who had their data released in the breach or made payments to Ashley Madison who could seek reimbursement.

The motion seeking preliminary approval said that while the plaintiffs believe they have a strong case, their success in further litigation is far from certain given the outstanding motion for arbitration and the potential for the defendants to challenge the plaintiffs' standing under the U.S. Supreme Court's landmark Spokeo decision — as well as financial uncertainty.

Representatives for the parties didn't immediately respond to requests for comment late Friday.

The plaintiffs are represented by interim co-lead counsel John J. Driscoll, Christopher J. Quinn and Gregory G. Pals of The Driscoll Law Firm and W. Lewis Garrison Jr., Christopher B. Hood, Taylor C. Bartlett and James F. McDonough III of Heninger Garrison Davis LLC. The plaintiffs' interim liaison counsel includes Douglas P. Dowd, William T. Dowd and Alex R. Lamaghi of Dowd & Dowd PC. The plaintiffs' interim executive committee includes John Arthur Eaves Jr. of John Arthur Eaves, Attorneys at Law, Gary F. Lynch and Jamisen A. Etzel of Carlson Lynch Sweet & Kilpela LLP, Thomas A. Zimmerman Jr. of Zimmerman Law Offices PC, Julian A. Hammond, Ari Cherniak and Polina Pecherskaya of Hammondlaw PC and Katrina Carroll and Kyle Alan Shamberg of Lite DePalma Greenberg.

Defendant Noel Biderman is represented by William S. Ohlemeyer, Christopher M. Green and Ian M. Dumain of Boies Schiller Flexner LLP.

Avid Dating Life Inc. and Avid Life Media Inc. are represented by Robert A. Atkins and Yahonnes Cleary of Paul Weiss Rifkind Wharton & Garrison LLP and Richard P. Cassetta and Helen Looney of Bryan Cave LLP.

The case is In Re: Ashley Madison Customer Data Security Breach Litigation, case number 4:15-md-02669 in the U.S. District Court for the Eastern District of Missouri.

--Additional reporting by Melissa Daniels. Editing by Alanna Weissman.