

Back Yard Burgers Closing Delayed

2007-09-03

Back Yard Burgers, Inc. (NASDAQ:BYBI) had previously reported that it expected its proposed merger transaction with BBAC, LLC to close during August.

Since that time, a complaint in federal district court was served on the Company and unnamed other defendants that alleges violations of the federal Fair and Accurate Credit Transactions Act, or FACTA, and the Tennessee Consumer Protection Act, or TCPA. The Company had also previously reported the filing of the lawsuit in its most recent quarterly report filed with the Securities and Exchange Commission. At this time the Company has determined that more time is needed to evaluate the issues raised in the lawsuit. The Company has not determined the ultimate impact of the lawsuit on its ability to proceed to close the pending merger transaction with BBAC, LLC.

The complaint, a putative class action complaint captioned Plank v. Back Yard Burgers, Inc., et. al. (No. CA-07-2499) was filed in the United States District Court for the Western District of Tennessee in late July, but not served on the company until late in the day on August 3, 2007. The complaint alleged that, contrary to FACTA and TCPA, Back Yard Burgers and other unnamed defendants willfully failed to properly truncate, or shorten, and mask certain personal account information on plaintiff's credit or debit card receipt provided to her (and, in the case of the TCPA, the receipt retained by the restaurant) at the point of sale by one of the company's restaurants. There was no claim that the plaintiff had suffered any actual damages or that she was the victim of identity theft related to the incident alleged in the lawsuit. Back Yard Burgers believes that it has meritorious defenses to this lawsuit and intends to vigorously contest it, including the plaintiff's efforts to certify the case as a class action.

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