

1997 WL 736690

Only the Westlaw citation is currently available.
United States District Court, W.D. New York.

Akil AL-JUNDI, a/k/a Herbert Scott Deane; Big Black, a/k/a Frank Smith; Elizabeth Durham, Mother and Legal Representative of Allen Durham, deceased; Litho Lundy, Mother and Legal Representative of Charles Lundy, deceased; Theresa Hicks, Widow and Legal Representative of Thomas Hicks, deceased; Alice McNeil, Mother and Legal Representative of Lorenzo McNeil, deceased; Maria Santos, Mother and Legal Representative of Santiago Santos, deceased; Laverne Barkley, Mother and Legal Representative of L.D. Barkley, deceased; Jomo Joka Omowale, a/k/a Eric Thompson; Vernon Lafranque; Alfred Plummer; Herbert X. Blyden; Joseph Little; Robin Palmer; George "Che" Nieves; James B. "Red" Murphy; Thomas Louk; Peter Butler; Charles "Flip" Crowley; William Maynard, Jr.; Calvin Hudson; Kimanthi Mpingo, a/k/a Edward Dingle; Kendu Haiku, a/k/a Willie Stokes; Ooji Kwesi Sekou, a/k/a Chris Reed; Phillip "Wald" Shields; Jerome Rosenberg; Alphonso Ross; Frank Lott; Gary Richard Haynes; Raymond Sumpter; Omar Sekou Toure a/k/a Otis McGaughey; Dacajeweiah, a/k/a John Hill; and Johnnie Barnes, as the Administrator of the goods, chattels and credits which were of John Barnes, deceased, on behalf of themselves and all others similarly situated,
Plaintiffs,

v.

Kurt G. OSWALD, as Administrator of the Estate of Russell G. Oswald; John S. Keller, as the Administrator of the Estate of John Monahan; Vincent Mancusi; and Karl Pfeil, Defendants.

No. 75-CV-0132E(M).

|
Nov. 4, 1997.

Attorneys and Law Firms

Elizabeth M. Fink, Brooklyn, NY, Michael E. Deutsch, Chicago, IL, Joseph Heath, Jamesville, NY, Dennis Cunningham, San Francisco, CA, Daniel Meyers, New York City, for the plaintiffs.

Oswald, John H. Stenger, Buffalo, NY, Keller, Joshua J.

Effron, Delmar, NY, Mancusi, Richard E. Moot, Buffalo, NY, Pfeil, Mitchell J. Banas, Mr, Buffalo, NY, for the defendants.

MEMORANDUM and ORDER

ELFVIN, J.

*1 Presently before this Court is a motion on behalf of certain members of the plaintiff class for Orders entering partial final judgments pursuant to Rule 54(b) of the Federal Rules of Civil Procedure ("FRCvP") against defendant Karl Pfeil in favor of plaintiffs Big Black a/k/a Frank Smith and David Brosig in the amounts of \$4,000,000 and \$75,000, respectively,—plus costs, fees and interest in each such "damages case" *nunc pro tunc* the date of the respective jury verdict and for an Order extending class counsel's time to file a motion or motions for interim attorney's fees, costs and any other expenses for sixty days after entry of each such partial final judgment. Such motions will be granted.

FRCvP 54(b) states:

"When more than one claim for relief is presented in an action, whether as a claim, counterclaim, cross-claim, or third-party claim, or when multiple parties are involved, the court may direct the entry of a final judgment as to one or more but fewer than all of the claims or parties only upon an express determination that there is no just reason for delay and upon an express direction for the entry of judgment."

Considering the duration of this litigation, that the Smith and Brosig claims with respect to which jury verdicts have been rendered are independent of the remaining individual claims for reprisals damages and for retaking

liability—and, if such liability be found, for individual retaking damages—which have yet to be resolved by trial and that an immediate appeal in the Smith and Brosig “subcases” will expedite resolution of the issues remaining in this class-action case, this Court finds that there is no just reason for delay.

Accordingly, it is hereby **ORDERED** that the motions by Smith and Brosig for entry of such partial final judgments are granted, that the time for filing any motions for attorney’s fees, costs and other expenses shall be extended to sixty days after such judgments have been entered, that defendant Pfeil shall have thirty days from the entry of each such partial final judgment in which to file a notice of appeal therefrom pursuant to Rule 4 of the Federal Rules of Appellate Procedure, that the Clerk of this Court shall enter a judgment as follows:

“IT IS ORDERED AND ADJUDGED that the motion of plaintiff Big Black a/k/a Frank Smith pursuant to Rule 54(b) of the FRCvP for entry of final judgment of the jury verdict rendered in his favor against defendant Karl Pfeil on June 5, 1997 in the amount of

\$4,000,000 is granted *nunc pro tunc* June 5, 1997,”

and, further, that the Clerk of this Court shall enter a judgment as follows:

“IT IS ORDERED AND ADJUDGED that the motion of plaintiff David Brosig pursuant to Rule 54(b) of the FRCvP for entry of final judgment of the jury verdict rendered in his favor against defendant Karl Pfeil on June 26, 1997 in the amount of \$75,000 is granted *nunc pro tunc* June 26, 1997.”

All Citations

Not Reported in F.Supp., 1997 WL 736690