

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

MAY 30 AM 10:46
U.S. DISTRICT COURT
SOUTHERN DIVISION

ANDREW D. THOMAS, et al.,

Plaintiffs,

v.

CV 99-AR-3280-S

PEMCO AEROPLEX, INC., et al.,

Defendants.

ENTERED

MAY 30 2002



ORDER

Before the court are motions that are, as yet, unrulued upon. Several motions in limine were heard by this court on May 10, 2002. During this hearing, the following motions were orally ruled upon by the court, and those oral rulings are dispositive of said motions: paragraphs 2, 9 (insofar as the ruling pertains to acceptances of offers of judgment), 10, 13, 16, and 17 of plaintiffs' motion in limine (document number 167); motion in limine with regard to statements of opinion that anyone is a "racist" (document number 168); motion in limine regarding rope noose (document number 169); motion in limine relating to EEOC determinations (document number 172); motions in limine regarding plaintiffs Larry Blanton, Charles V. Smith, Sr., Michael Brown, Michael McCurdy, Annette Mickel, Mitchell George, and John Jackson, Jr. (document numbers 173, 174, 175, 176, 177, 178, and 179); paragraph 2 of motion in limine regarding plaintiff Shirley High (document number 182); paragraph 5 of motion in limine regarding plaintiff Debbie Walker-Wise (document number 183);



motion in limine regarding plaintiff Mary Catherine Johnson (document number 185); paragraph 3 of motion in limine regarding plaintiff Desmond Heath (document number 186); paragraph 2 of motion in limine regarding plaintiff Arthur Lane (document number 188); paragraphs 1 (insofar as the ruling pertains to the admissibility of evidence regarding prior litigation by another employee) and 3 regarding plaintiff Carl E. Washington (document number 189); paragraph 1 of motion in limine regarding plaintiff Donnell Smith (document number 190); and paragraph 1 of motion in limine regarding plaintiff Donald Phillips (document number 191).

During the hearing on May 10, 2002, the court expressly reserved ruling on the following matters until such a ruling should become necessary at trial: paragraphs 7, 8, 9 (regarding the admissibility of testimony by those plaintiffs accepting defendants' offers of judgment), 11, 12, 14, and 15 in plaintiffs' motion in limine (document number 167); motion in limine regarding hearsay evidence (document number 170); motion in limine regarding incidents where PEMCO took prompt remedial action (document number 171); paragraph 4 in motion in limine regarding plaintiff Susie Smith (document number 181); paragraph 2 of motion in limine regarding plaintiff Debbie Walker-Wise (document number 183); paragraph 2 of motion in limine regarding plaintiff Donnell Smith (document number 190); paragraphs 3 and 5 of motion in limine regarding plaintiff Donald Phillips (document

number 191); and paragraphs 2, 3, and 4 of motion in limine regarding plaintiff George Godfrey (document number 192).

Throughout the course of the same hearing, the court noted that the disposition of particular motions in limine would be controlled by the temporal boundary of relevance that at that time had not been fixed by the court; thus, the court reserved ruling on those motions. The court, having thereafter established such a "magic date" by separate order on May 15, 2002, now deems the following motions as having been ruled upon in accordance with said order: motion in limine regarding plaintiff Sylvester Triplett (document number 180); paragraphs 1, 2, 3, and 5 of motion in limine regarding plaintiff Susie Smith (document number 181); paragraph 1 of motion in limine regarding plaintiff Shirley High (document number 182); paragraphs 1, 3, and 4 of motion in limine regarding plaintiff Debbie Walker-Wise (document number 183); motion in limine regarding plaintiff Dwight Horton, Sr. (document number 184); paragraphs 1 and 2 of motion in limine regarding plaintiff Desmond Heath (document number 186); paragraph 1 of motion in limine regarding plaintiff Arthur Lane (document number 188); paragraphs 1 and 2 regarding plaintiff Carl E. Washington (document number 189); paragraphs 2 and 4 of motion in limine regarding plaintiff Donald Phillips (document number 191); and paragraph 1 of motion in limine regarding plaintiff George Godfrey (document number 192).

At the conclusion of the hearing on May 10, 2002, the court took under advisement defendants' motion in limine regarding Brandi Washington and certain matters in plaintiffs' motion in limine. Defendants' motion in limine regarding Brandi Washington (document number 187) is DENIED. With respect to paragraphs 1, 3, and 6 of plaintiffs' motion in limine (document number 167), the motion is DENIED. Regarding paragraphs 4 and 5 of plaintiffs' motion, the motion is partially GRANTED, in accordance with the court's prior written and oral rulings. To the extent that the court has not previously disposed of the issues in paragraphs 4 and 5, the court RESERVES ruling until such a ruling should become necessary at trial.

Confirming the oral ruling at the hearing on May 28, 2002, on the motion filed by plaintiffs on the eve of trial for "sanctions and to compel deposition of Andy Landsgraft," the motion is GRANTED to the extent that plaintiffs are allowed to depose Landsgraft upon his return from vacation. Said deposition is to be taken at the expense of defendants. The deposition, however, shall not exceed **seventy-five minutes** in length. To the extent that plaintiffs seek other relief in their motion, the motion is DENIED.

Turning to the issues presented to this court by the Eleventh Circuit's opinion of May 20, 2002 in *Levi A. Billups, III v. Pemco Aeroplex, Inc.* and addressed by the parties in a

supplemental pre-trial conference held on May 28, 2002, the action of Levi Billups, III, insofar as he seeks injunctive relief, is REINSTATED. Because plaintiffs Allen Hurt, Erwin Curtis, and Meshell Belser were situated similarly to Levi Billups, III, the court, by order of August 24, 2001, stayed consideration of defendants' motions for summary judgment against those three plaintiffs, pending the outcome of the Billups appeal. The court subsequently severed the actions of Hurt, Curtis, and Belser on February 6, 2002. In light of the reinstatement of the action of Billups for injunctive relief, the court LIFTS the stay of consideration of the motions for summary judgment regarding Hurt, Curtis, and Belser. For the same reasons that the court granted defendants' motion for summary judgment against Billups, the motions for summary judgment regarding Hurt, Curtis, and Belser are GRANTED, insofar as they assert claims for monetary relief, and the actions for monetary relief are DISMISSED WITH PREJUDICE. However, to the extent that they assert claims for injunctive relief, the motions for summary judgment against Hurt, Curtis, and Belser are DENIED, and those actions are CONSOLIDATED with the actions of Billups and the remaining plaintiffs in the above-styled case. The actions of Billups, Hurt, Curtis, and Belser are now limited solely to claims for injunctive relief.

Additionally, the motion for injunctive relief by the

plaintiffs who have accepted defendants' Rule 68 offers of judgment will be deferred until after the jury verdict.

DONE this 30th day of May 2002.



WILLIAM M. ACKER, JR.
UNITED STATES DISTRICT JUDGE