

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
LUFKIN DIVISION

FILED - CLERK
U.S. DISTRICT COURT
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TX EASTERN LUFKIN
BY OH

SYLVESTER MCCLAIN, et al.

Plaintiffs,

vs.

LUFKIN INDUSTRIES,

Defendant.

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CIVIL ACTION NO. 9:97-CV-063

**DEFENDANT LUFKIN INDUSTRIES' OBJECTION TO TRIAL IN BEAUMONT AND
MOTION TO TRANSFER CASE TO LUFKIN FOR TRIAL**

Defendant Lufkin Industries ("Lufkin") respectfully objects to the Court's sua sponte Order which sets this case for trial in Beaumont and moves the Court to set this case for trial in Lufkin, as follows:¹

FACTUAL BACKGROUND

1. This case was filed in the Lufkin Division by Sylvester McClain and Buford Thomas. Mr. McClain and Mr. Thomas lived and worked in Lufkin, Texas when this lawsuit was filed. (Plaintiffs' Second Amended Supplemental Complaint, ¶¶ 5 & 6). Following a class certification hearing, the Court certified a class of all Black employees from March 6, 1994 to present, consisting of 900+ class members.

2. On June 16, 2003, Plaintiffs filed a witness list identifying 62 non-expert witnesses they expect to call at trial, virtually all of whom work or reside in Lufkin, and none of whom work or reside in the Beaumont area. The Plaintiffs' potential witnesses include, among others, 13 class representatives, 34 absent class members, and 21 current Lufkin supervisors, managers, and officers (class and non-class members). (Exhibit A, Plaintiffs' Witness List).

¹ While the Court has not actually transferred the case to the Beaumont Division (it has simply ruled that the case will be tried in Lufkin), the Court's Order has the same effect as a Transfer Order.

a. According to Plaintiffs' witness list, 12 of the 13 named plaintiffs and class representatives reside or work in the Lufkin vicinity, well within the boundaries of the Lufkin division, and none reside or work near the Beaumont area.² (Exhibit A, Plaintiffs' Witness List). As named plaintiffs and class representatives, whose rights are affected by this case, each of these individuals has a special interest in this case as well as the right, if not the obligation, to attend any and all of portions of the trial of this matter, to the extent allowed by law.

b. In addition to the 13 class representatives, Plaintiffs identified 34 absent class members who may testify at trial. (*Id.*). According to the addresses provided by Plaintiffs, all of these individuals reside or work in the Lufkin area, within the boundaries of the Lufkin division, and none of them reside or work in the Beaumont area. (*Id.*). Like the named plaintiffs and class representatives, whose rights are being adjudicated in this action, each of these individuals has a special interest in this case and after giving testimony, should have a realistic opportunity to attend the trial of this matter.

c. Plaintiffs further identified 21 current Lufkin managers, supervisors, and officers (class and non-class members), including five manufacturing division heads with overall responsibility for Lufkin's respective manufacturing operations. (Exhibit B, Affidavit of Paul Perez). All of these individuals reside or work in the Lufkin area, within the boundaries of the Lufkin division, and each is important to the day-to-day operations of the Company. (*Id.*). In particular, the division heads are of critical importance to Lufkin's day-to-day manufacturing operations. (*Id.*). A lengthy trial

² Class Representative Sherry Calloway-Swint resides in Lancaster, Texas, near Dallas.

requiring their absence from the Lufkin area for any significant period of time would unnecessarily disrupt business operations. (*Id.*).

d. Finally, Plaintiffs identified a handful of current or former Lufkin employees (non-class members), a former Lufkin manager, and several others, including a member of the Lufkin office of the Texas Workforce Commission and a local union official, as potential witnesses. Without exception, these individuals also reside or work within the Lufkin area, within the boundaries of the Lufkin division. (Exhibit A, Plaintiffs' Witness List).

e. Except as discussed above, the only person on Plaintiffs' witness list that lives outside the Lufkin area is Plaintiffs' own expert, who resides and works in California. (*Id.*).

4. There are in excess of 900 former and current Lufkin employees included in the class as it is currently defined. On information and belief, most of these individuals reside or work in the Lufkin area within the Lufkin division and none of them reside or work in the Beaumont vicinity. As plaintiffs, whose rights are being adjudicated in this action, each of these individuals has a special interest in the case and should have a realistic opportunity to attend any and all portions of the trial of this matter, to the extent allowed by the rules of procedure.

5. Lufkin's headquarters and principal manufacturing operations are all located in Lufkin, Texas. Lufkin has no facility or office in or around Beaumont. (Exhibit B, Affidavit of Paul Perez). Documents and other records related to the Company's Lufkin, Texas operations, including both personnel files and grievance files, are located in Lufkin, Texas. (*Id.*).

6. Plaintiffs' lead counsel resides and offices in Nacogdoches, Texas, which is approximately 20 miles from Lufkin and 127 miles from Beaumont.

7. Defendant's lead counsel reside and office in Houston, Texas, which is approximately 120 miles from Lufkin and 88 miles from Beaumont.

8. To date, neither party has requested that the Court transfer this case to the Beaumont Division.

9. Plaintiffs originally demanded a jury. However, Plaintiffs have dismissed any claims that they might have for compensatory and punitive damages, making a jury unnecessary.³

ARGUMENT

The statutory presumption is that any case filed within the Lufkin division of the Eastern District of Texas will be heard in Lufkin. *See* 28 U.S.C.A. § 124(c)(7) (“[c]ourt for the Lufkin Division shall be held at Lufkin”). Because this case was filed in Lufkin, there is a statutory presumption that it should be tried in Lufkin. There is no basis to deviate from this statutory presumption and to transfer this case to Beaumont for trial. *See In re Horseshoe Entertainment*, – F.3d –, 2003 WL 21498934 (5th Cir. July 1, 2003) (granting writ of mandamus, reversing district court and ordering transfer of Title VII case to district and division where alleged discrimination occurred, employment records were located, and almost all potential witness resided).

The analysis for any proposed transfer is the same regardless of whether the transfer is inter or intra-district. *See Mohamed v. Mazda Motor Corp.*, 90 F.Supp.2d 757, 768 (E.D. Tex. 2000). Except in cases where all of the parties consent to the transfer, 28 U.S.C. § 1404(b), there are only two circumstances that would justify having this case tried in Beaumont instead of

³ In previous correspondence, the Court has discussed providing an opt-out right to the class. To the extent any class member opts out, he or she would be entitled to a jury trial. Under established 7th Amendment jurisprudence, any such trial would have to occur before a trial of the class issues.

Lufkin: (1) “the convenience of parties and witnesses”; and (2) the “interest of justice.” 28 U.S.C. § 1404(a).

A. **All of the “Convenience” Factors Weigh Against Transferring This Case to Beaumont.**

Convenience factors include: (1) plaintiff’s choice of forum; (2) convenience of the parties and witnesses; (3) place of the alleged wrong; (4) location of counsel; (5) cost of obtaining the attendance of witnesses; (6) accessibility and location of sources of proof; and (7) possibility of delay and prejudice if transfer is granted. *Hanby v. Shell Oil Co.*, 144 F.Supp.2d 673, 676-77 (E.D. Tex 2001) (Cobb, J.). Of these, the most important factor governing the choice of venue is whether “substantial inconvenience will be visited upon key witnesses.” See *Mohamed*, 90 F.Supp.2d at 774.

“A plaintiff’s right to choose a forum is well-established, and there is a strong presumption favoring a plaintiff’s choice.” *Hanby*, 144 F. Supp.2d at 677 (citing *Robertson v. Kiamichi RR Co., L.L.C.*, 42 F. Supp.2d 651, 655 (E.D. Tex. 1999)). Any transfer analysis must begin with the fact that Plaintiffs chose to bring this case in Lufkin. As Plaintiffs obviously recognized, Lufkin is the only location with a factual nexus to this case, and the only location convenient for the parties and the witnesses, virtually all of whom reside or work in the Lufkin area or vicinity and none of whom reside or work near Beaumont.

In the same case, this Court similarly stated that “where another venue is more convenient to the residences of the parties, in terms of travel miles, over a more remote venue with no factual nexus, the closer venue is more appropriate.” *Hanby*, 144 F.Supp.2d at 678. There is no dispute that the Defendant, Lufkin Industries, is principally located in Lufkin, Texas and has no facilities in Beaumont. (Exhibit B, Affidavit of Paul Perez). The Plaintiffs too, including all but one of the class representatives, reside or work in the Lufkin vicinity, within the

boundaries of the Lufkin division, and have no relationship to the Beaumont area. (Exhibit A, Plaintiffs' Witness List; Plaintiffs' Second Amended Supplemental Complaint, ¶¶ 4-19). Additionally, upon information and belief, the 900+ class members, who are absent parties to this action, reside or work in the Lufkin vicinity, and have no known connection to Beaumont. In sum, each and every party whose rights will be adjudicated in this trial either lives or works in or around Lufkin and has no relationship to the Beaumont area.

The same results obtain with respect to the potential trial witnesses. Of the 62 non-expert witnesses identified on Plaintiffs' witness list: (i) all of the 13 named plaintiffs and class representatives reside or work in the Lufkin area, except for one class representative who lives near Dallas, (ii) all of the 32 absent class members reside or work in the Lufkin area, (iii) all of the 21 currently-employed Lufkin supervisors, managers, and officers (class and non-class) reside or work in the Lufkin area, and (iv) all of the remaining witnesses, including other past and present Lufkin employees, a representative from the Lufkin office of the Texas Workforce Commission, and a local union official reside or work in the Lufkin area. (Exhibit A, Plaintiffs' Witness List; Exhibit B, Affidavit of Paul Perez). Lufkin anticipates that all, or substantially all, of its witnesses will also reside or work in Lufkin.

Under these circumstances, a transfer to Beaumont will cause substantial inconvenience to the parties and administrative difficulties for the Court. First, because virtually all of the potential witnesses either live or work in the Lufkin vicinity, as pointedly demonstrated by Plaintiffs' own witness list, they will have to travel over 200 miles (roundtrip) to testify at the trial. Trial schedules are unpredictable and it is very difficult for counsel to predict with certainty when a witness will be needed. The witness who is called to appear to testify on the afternoon of one day, stands a good chance of being asked to return the next morning, meaning

many witnesses may have to miss multiple days of work (without pay) in order to stay in Beaumont, on standby, in case they are needed.

The respective parties will have to pay for the travel costs of any witnesses subpoenaed to testify in Beaumont, including mileage and possible multi-day hotel stays. Where, as here, the trial is expected to last at least one month, necessitating either roundtrip daily travel for many witnesses or hotel expenses in Beaumont, these costs in terms of both inconvenience to the witnesses and expense to the parties will be significant. *See generally Conway v. Lenzing Aktiengesellschaft*, 222 F. Supp.2d 833, 834 (E.D. Tex. 2002); *Day v. Burlington Northern Santa Fe Railway Co.*, 196 F.Supp.2d 435, 436 (E.D. Tex. 2001).

In addition to travel and hotel expenses, there are also other direct costs to the parties and witnesses. Putting aside the fact that all of the parties and witnesses will be forced to miss entire days of work to attend or testify at a trial more than 100 miles away from their homes and jobs, the Plaintiffs have identified 21 Lufkin managers, supervisors, and officers (class and non-class members) as potential witnesses. (Exhibit B, Affidavit of Paul Perez). Five of these individuals are manufacturing managers, in charge of Lufkin's manufacturing and production operations in each of its four divisions, and one is responsible for Lufkin's information systems companywide.⁴ (*Id.*). These individuals are critical to Lufkin's day-to-day operations and addressing the daily problems and requirements of Lufkin's customers and the employees under their supervision. (*Id.*). A lengthy trial in Beaumont requiring their continued or prolonged absence from the Lufkin area would disrupt the Company's business operations unnecessarily. (*Id.*).

⁴ These persons include Larry Long, Jay Glick, David Jinkins, Richard Gilley, Steven Reynolds, and Stephen Conway. (Exhibit B, Affidavit of Paul Perez).

On the other hand, if the case were tried in Lufkin, all of the parties, the 62+ witnesses on Plaintiffs' witness list, and the 900+ absent class members, could continue to work a normal schedule, attend the trial, and be available on short notice at the courthouse in Lufkin if subpoenaed to testify, without significant interruption to their regular workday or Lufkin's day-to-day operations.

The remaining convenience factors also militate in favor of keeping this trial in Lufkin. The location of all alleged wrongs committed by the Defendant occurred in and around Defendant's operating facilities in Lufkin. (Plaintiffs' Second Amended Supplemental Complaint, ¶¶ 21-123). By contrast, Beaumont has no factual nexus to this case. *Cf. Hanby*, 144 F. Supp.2d at 679.

Plaintiffs' lead counsel resides much closer to Lufkin than Beaumont. Additionally, while Beaumont may be slightly nearer to the Defendant's counsel's Houston offices, the undersigned counsel would find trial in Beaumont to be much more inconvenient, because of the lack of access to company records and company personnel during the trial. In particular, given that this case spans more than a decade, coupled with the sheer number of witnesses on Plaintiffs' preliminary witness list alone, Lufkin will be substantially disadvantaged by a trial occurring one hundred miles away from its records and managers, which are located in Lufkin.

Plaintiffs have identified 47 members of the class (including the named plaintiffs and class representatives) that they intend to call at trial to offer anecdotal evidence of alleged discrimination occurring at Lufkin Industries over the last 10 years. (Exhibit A, Plaintiffs' Witness List). The likelihood that unexpected statements may be made by these witnesses is significant, indeed, virtually a certainty, inasmuch as Plaintiffs' preliminary witness list includes an astonishing 34 absent class members, whom Plaintiffs have so far shielded from all

discovery.⁵ For example, it is not difficult to imagine in light of the depositions taken thus far, that some absent class member on Plaintiffs' witness list may take the stand and testify as did Class Representative Owens about some unnamed friend who applied for a job in the 1980's or as did Class Representative Butler about a promotion he or she did not get in the 1970's. Lufkin's cross-examination of these anecdotal witnesses will likely have to be prepared "on the spot" without the benefit of any substantial pre-trial discovery from absent class members. It is therefore essential that Lufkin have quick access to its records and managers in order effectively to rebut such anecdotal testimony. Such access is realistic only if trial is held in Lufkin, where Lufkin's records and managers are located. (Exhibit B, Affidavit of Paul Perez).

Finally, there is no possibility of delay or prejudice if a transfer is granted. Whether tried in Beaumont or Lufkin, this case will be tried by the same Court under the existing trial schedule.

B. The "Interest of Justice" Factors Weigh Heavily Against Transferring This Case to Beaumont.

Transferring a case may also be justified in the "interest of justice." 28 U.S.C. § 1404(a). Public interest factors include: (1) administrative difficulties caused by court congestion; (2) local interest in adjudicating local disputes; (3) unfairness of burdening citizens in unrelated forum with jury duty;⁶ and (4) avoidance of unnecessary problems in conflict of

⁵ Lufkin has filed a Motion to Compel and a Motion for Leave to Serve Written Discovery on the Class. Both motions are still pending.

⁶ As it currently stands, the Court will try this case without a jury. Accordingly, there is no reason to consider any argument that the "interest of justice" would be served by having a Beaumont jury hear this case instead of a Lufkin jury because the latter would be prejudiced against one party or the other because of what jurors had heard about the case. But even if this case were to be tried to a jury, there has been no showing that it would be impossible to find a fair jury panel in Lufkin. In fact, there is evidence to the contrary. In January 2003, when this Court tried the case styled *Roald Mark v. Lufkin Industries*, 9:98-CV-00277, to a Lufkin jury, the Court asked potential jurors in voir dire whether they had heard of the present class action. Not one of the twenty-five potential jurors who been called had heard of the case. Ultimately, only two jurors had to be struck for cause, one who had spouse who was employed by Lufkin and another who was related to one of

laws. *Hanby*, 144 F. Supp.2d at 677. There are no “interest of justice” factors that weigh in favor of having this case tried in Beaumont, in contrast to at least three compelling “interest of justice” factors that weigh heavily favor of having this case tried in Lufkin.

First, the 900+ class members have a direct interest in this case. They will be effectively shut out of attending the trial of this matter if they have to miss work and travel at their own expense more than 200 miles daily, round-trip, to attend the proceedings.

Second, there is a commensurate local interest in adjudicating local disputes. *See Hanby*, 144 F. Supp.2d at 676. The people of Lufkin certainly have a greater interest in this case than the citizens of Beaumont given that Plaintiffs have made serious accusations against a major Lufkin employer. If the case is held in Beaumont, it will be much more difficult for citizens interested in the case to attend the trial.

Finally, for Title VII actions, the Fifth Circuit has made it clear that there are specific “special factors” determining where proper venue lies: (1) the unlawful employment practice is alleged to have been committed; (2) the employment records relevant to such practice are maintained and administered; (3) the aggrieved person would have worked but for the alleged unlawful employment practice; and (4) the respondent has his principal office. 42 U.S.C. § 2000e-5(f)(3); *In Re Horseshoe Entertainment*, – F.3d –, 2003 WL 21498934 (5th Cir. July 1, 2003).⁷ The Fifth Circuit has recognized that the special venue factors included in Title VII indicate that Congress determined that the most appropriate place for employment discrimination controversies to be litigated were within venues that had direct and immediate connection with

Lufkin’s managers. There is nothing to suggest that this particular jury pool was anomalous. Based on the experience in the *Mark* case, it appears that an untainted jury could be found for the present case.

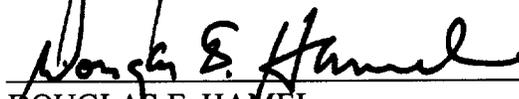
⁷ Although the *Horseshoe* opinion directly concerns itself with transfers between judicial districts, not divisions, other Texas district courts have recognized that the principals articulated in that opinion are instructive for transferring venue *within* districts as well. *See Cardenas-Garcia v. Texas Tech University*, 2003 WL 282445 (N.D. Texas—Dallas Div. Feb 4, 2003).

the parties, the events and the evidence bearing on their controversy. *Id.* All of these factors weigh in favor of having the present case tried in Lufkin.

CONCLUSION

For the foregoing reasons, Lufkin is the more appropriate location for trial. Defendant moves that trial of this matter be reset for Lufkin, Texas.

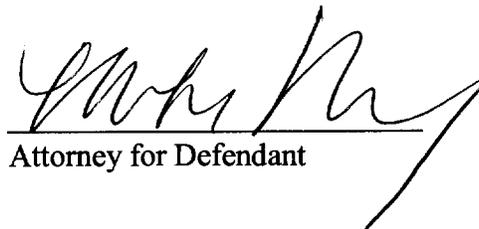
Respectfully submitted,



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ATTORNEYS FOR LUFKIN INDUSTRIES

CERTIFICATE OF CONFERENCE

Plaintiffs are opposed to this Motion.



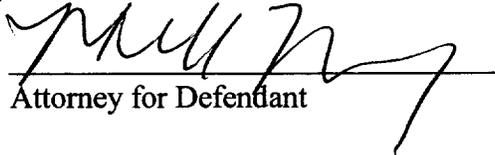
Attorney for Defendant

CERTIFICATE OF SERVICE

I certify that on this 31 day of July, the foregoing motion was forwarded to counsel for Plaintiffs by facsimile (without exhibits) and Federal Express mail (with exhibits), with proper postage affixed and addressed as follows:

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**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
LUFKIN DIVISION**

**SYLVESTER MCCLAIN, on his own
behalf and on behalf of a class of similarly
situated persons, et al.,**

Plaintiffs,

vs.

LUFKIN INDUSTRIES,

Defendant.

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CIVIL ACTION NO. 9:97-CV-063

ORDER

The trial of this case is specially set for the United States Courthouse in Lufkin, Texas on

_____, 2003.

UNITED STATES DISTRICT JUDGE

EXHIBIT A

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT COURT OF TEXAS
LUFKIN DIVISION

Sylvester McClain, et al.

Plaintiffs,

v.

Lufkin Industries, Inc.

Defendants.

§ Civil Action No. 9:97 CV 063 (COBB)
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PLAINTIFFS' WITNESS LIST

I. PRELIMINARY STATEMENT

This witness list is based upon information presently known and available to plaintiffs, which they have been able to identify through reasonable efforts. Discovery, investigation, research and analysis are still on-going and may disclose the existence of additional witnesses or eliminate the need for testimony from previously identified witnesses. Plaintiffs therefore reserve and do not waive their right to add or delete witnesses from this list as a result of information later discovered or obtained. Further, plaintiffs reserve the right to add witnesses if necessary to rebut testimony provided by any of Lufkin Industries, Inc.'s ("Lufkin") witnesses. Lastly, plaintiffs reserve the right to present at trial any witness identified on Lufkin's witness list, including but not limited to Lufkin's expert witnesses.

II. WITNESSES THAT PLAINTIFF MAY PRESENT AT TRIAL:

1. Plaintiffs may present the following witnesses to provide expert testimony at trial:

a. Plaintiffs' statistical expert, Richard Drogin, 3104 Shattuck Avenue, Berkeley, CA 94705; (510) 540-5071.

b. Additional experts to be disclosed in accordance with the Docket Control Order filed with the Court on April 11, 2003.

2. Plaintiffs may present the following witnesses at trial to testify regarding Lufkin's employment practices:

- a. Marce D. Allen, Route 7, Box 1314, Lufkin, TX 75904; 936-853-3582.
- b. Leon Amie, Route 1, Box 167, Kennard, TX 75847; 936-638-4327. Please note that Mr. Amie is a member of the class certified in this matter and should be contacted only through plaintiffs' counsel.
- c. Travis Amie, 601 S. Raguét, Lufkin, TX 75902; 936-634-2211. Please note that Mr. Amie is a member of the class certified in this matter and should be contacted only through plaintiffs' counsel.
- d. Lenard Anders, 601 S. Raguét, Lufkin, TX 75902; 936-634-2211. Please note that Mr. Anders is a member of the class certified in this matter and should be contacted only through plaintiffs' counsel.
- e. Viron Barbay, 601 S. Raguét, Lufkin, TX 75902; 936-634-2211.
- f. Perry Bell, 601 S. Raguét, Lufkin, TX 75902; 936-634-2211. Please note that Mr. Bell is a member of the class certified in this matter and should be contacted only through plaintiffs' counsel.
- g. Thomas Brewer, 608 Bledsoe, Lufkin, TX 75904; 936-632-4180. Please note that Mr. Brewer is a member of the class certified in this matter and should be contacted only through plaintiffs' counsel.
- h. Fremon Bryant, 601 S. Raguét, Lufkin, TX 75902; 936-634-2211. Please note that Mr. Bryant is a member of the class certified in this matter and should be contacted only through plaintiffs' counsel.
- i. James Bryant, P.O. Box 631844, Nacogdoches, TX 75965; 936-639-5748. Please note that Mr. Bryant is a member of the class certified in this matter and should only be contacted through plaintiffs' counsel.
- j. Somari Bryant, 5510 Champion Dr., Lufkin, TX 75901; 936-675-4014. Please note that Mr. Bryant is a member of the class certified in this matter and should be contacted only through plaintiffs' counsel.
- k. Walter Butler, 101 Pаметto Ct., Lufkin, TX 75901; 936-632-1332. Please note that Mr. Butler is a class representative in this matter and should be contacted only through plaintiffs' counsel.
- l. Sherry Calloway-Swint, 2601 Everton Dr., Lancaster, TX 75134; 972-218-6096. Please note that Ms. Calloway-Swint is a class representative in this matter and should be contacted only through plaintiffs' counsel.

- m. Vivian Crain, 2403 Kingwood Cir., Lufkin, TX 75901; 936-632-7955. Please note that Ms. Crain is a member of the class certified in this matter and should be contacted only through plaintiffs' counsel.
- n. Steven Conway, 601 S. Raguet, Lufkin, TX 75902; 936-634-2211.
- o. Byron Coutee, 601 S. Raguet, Lufkin, TX 75902; 936-634-2211. Please note that Mr. Coutee is a member of the class certified in this matter and should be contacted only through plaintiffs' counsel.
- p. Gerald Coutee, 601 S. Raguet, Lufkin, TX 75902; 936-634-2211. Please note that Mr. Coutee is a member of the class certified in this matter and should be contacted only through plaintiffs' counsel.
- q. Walter Culpepper, 601 S. Raguet, Lufkin, TX 75902; 936-634-2211. Please note that Mr. Culpepper is a member of the class certified in this matter and should be contacted only through plaintiffs' counsel.
- r. Calvin Deason, 317 Ellis Ave., Lufkin, TX 75904; 936-637-6264. Please note that Mr. Deason is a member of the class certified in this matter and should be contacted only through plaintiffs' counsel.
- s. John Doss, Box 332, Wells, TX 75976; 936-867-4780.
- t. Clifford Duirden, 501 Chimney Rock, Lufkin, TX 75904; 936-634-5983. Please note that Mr. Duirden is a class representative in this matter and should be contacted only through plaintiffs' counsel.
- u. William Fisher, Box 28002 MLK, Corrigan, TX 75939; 936-398-2256. Please note that Mr. Fisher is a member of the class certified in this matter and should only be contacted through plaintiffs' counsel.
- v. Edward Gardner, 806 Tredwell, Lufkin TX 75904; 936-634-6885. Please note that Mr. Gardner is a member of the class certified in this matter and should only be contacted through plaintiffs' counsel.
- w. Leroy Garner, Route 1, Pollock, TX 75969; 936-867-4474. Please note that Mr. Garner is a class representative in this matter and should be contacted only through plaintiffs' counsel.
- x. Richard Gilley, 601 S. Raguet, Lufkin, TX 75902; 936-634-2211.
- y. Jay Glick, 601 S. Raguet, Lufkin, TX 75902; 936-634-2211.
- z. Cleavon Harper, 324 Tom Holland Road, Lufkin, TX 75901; 936-634-6331. Please note that Mr. Harper is a member of the class certified in this matter and should be contacted only through plaintiffs' counsel.

- aa. Mondorfe Hadnot, 601 S. Raguets, Lufkin, TX 75902; 936-634-2211.
Please note that Mr. Hadnot is a member of the class certified in this matter and should be contacted only through plaintiffs' counsel.
- bb. John Havard, 601 S. Raguets, Lufkin, TX 75902; 936-634-2211.
- cc. Lemon Hamilton, 601 S. Raguets, Lufkin, TX 75902; 936-634-2211.
Please note that Mr. Hamilton is a member of the class certified in this matter and should be contacted only through plaintiffs' counsel.
- dd. Jimmy L. Jackson, 404 Washington, Lufkin, TX 75904; 936-632-4169.
Please note that Mr. Jackson is a member of the class certified in this matter and should be contacted only through plaintiffs' counsel.
- ee. Alfred Johnson, 600 Sandybrook, Lufkin, TX 75901; 936-639-5189.
Please note that Mr. Johnson is a member of the class certified in this matter and should be contacted only through plaintiffs' counsel.
- ff. David Jenkins, 601 S. Raguets, Lufkin, TX 75902; 936-634-2211.
- gg. Robert Lewis, 512 Brasell, Lufkin, TX 75901; 936-634-2250. Please note that Mr. Lewis is a member of the class certified in this matter and should only be contacted through plaintiffs' counsel.
- hh. Larry Long, 601 S. Raguets, Lufkin, TX 75902; 936-634-2211.
- ii. Oscar Lopez, 2803 Fuller Springs, Lufkin, TX 75901; 936-637-7829.
- jj. A representative of the Lufkin Workforce Center, 346 N. John Redditt Dr., Lufkin, TX 75904; 936-639-1351.
- kk. Roald Mark, 614 Humason, Lufkin, TX 75901; 936-639-0622. Please note that Mr. Mark is a class representative in this matter and should be contacted only through plaintiffs' counsel.
- ll. Eddie Mask, 1807 Spence, Lufkin, TX 75901; 936-632-4930. Please note that Mr. Mask is a class representative in this matter and should be contacted only through plaintiffs' counsel.
- mm. Sylvester McClain, P.O. Box 151606, Lufkin, TX 75901; 936-699-2873.
Please note that Mr. McClain is a named plaintiff in this matter and should be contacted only through plaintiffs' counsel.
- nn. Kingsley McKay, 601 S. Raguets, Lufkin, TX 75902; 936-634-2211.
Please note that Mr. McKay is a member of the class certified in this matter and should be contacted only through plaintiffs' counsel.

oo. Robert Moye, P.O. Box 152051, Lufkin, TX 75915; 936-875-5968. Please note that Mr. Moye is a member of the class certified in this matter and should be contacted only through plaintiffs' counsel.

pp. Patsy Obi, Route 3, Huntington, TX 75949; 936-422-5098. Please note that Ms. Obi is a member of the class certified in this matter and should be contacted only through plaintiffs' counsel.

qq. Clarence Owens, 808 Atkinson, Lufkin, TX 75901; 936-699-3742. Please note that Mr. Owens is a class representative in this matter and should be contacted only through plaintiffs' counsel.

rr. Paul Perez, 601 S. Raguet, Lufkin, TX 75902; 936-634-2211.

ss. Earl Potts, 818 Overstreet, Crockett, TX 75835; 936-544-5358. Please note that Mr. Potts is a class representative in this matter and should be contacted only through plaintiffs' counsel.

tt. Keith Purvis, 150 White Dove Dr., Lufkin, TX 75901; 936-824-3731. Please note that Mr. Purvis is a member of the class certified in this matter and should be contacted only through plaintiffs' counsel.

uu. Steven Reynolds, 601 S. Raguet, Lufkin, TX 75902; 936-634-2211.

vv. Louis Ross, 601 S. Raguet, Lufkin, TX 75902; 936-634-2211. Please note that Mr. Ross is a member of the class certified in this matter and should only be contacted through plaintiffs' counsel.

ww. Patrick Ross, 107 Kirksey, Lufkin, TX 75901; 936-632-1368. Please note that Mr. Ross is a class representative in this matter and should be contacted only through plaintiffs' counsel.

xx. Kenneth Singleton, 1107 Renfro, Lufkin, TX 75901; 936-639-1746. Please note that Mr. Singleton is a member of the class certified in this matter and should be contacted only through plaintiffs' counsel.

yy. Charles Shattuck, 601 S. Raguet, Lufkin, TX 75902; 936-634-2211. Please note that Mr. Shattuck is a member of the class certified in this matter and should only be contacted through plaintiffs' counsel.

zz. Lenneth Sowell, 601 S. Raguet, Lufkin, TX 75902; 936-634-2211. Please note that Mr. Sowell is a member of the class certified in this matter and should only be contacted through plaintiffs' counsel.

aaa. Lorinzo Tatum, Sr., 11197 CR 3292 D, Garrison, TX 75946; 936-347-3509. Please note that Mr. Tatum is a member of the class certified in this matter and should be contacted only through plaintiffs' counsel.

bbb. Buford Thomas, Route 7, P.O. Box 510, Lufkin, TX 75904-8532; 936-632-7818. Please note that Mr. Thomas is a named plaintiff in this matter and should be contacted only through plaintiffs' counsel.

ccc. Curtis Thomas, 601 S. Raguet, Lufkin, TX 75902; 936-634-2211. Please note that Mr. Thomas is a member of the class certified in this matter and should only be contacted through plaintiffs' counsel.

ddd. Kerroy M. Thomas, 115 Knollwood, Lufkin, TX 75904; 936-526-6854. Please note that Mr. Thomas is a member of the class certified in this matter and should be contacted only through plaintiffs' counsel.

eee. Shirley Thomas, 614 N. Chestnut, Lufkin, TX 75901; 936-634-5089. Please note that Ms. Thomas is a member of the class certified in this matter and should only be contacted through plaintiffs' counsel.

fff. Florine Thompson, 4205 June Drive, Lufkin, TX 75901; 936-875-4700. Please note that Ms. Thompson is a class representative in this matter and should be contacted only through plaintiffs' counsel.

ggg. Billy F. Webb, 200 AN CO Rd. 423, Palestine, TX 75803; 903-729-7148.

hhh. Bob Westerbrook, 601 S. Raguet, Lufkin, TX 75902; 936-634-2211.

iii. James White, P.O. Box 3198, Lufkin, TX 75907; 936-639-2654. Please note that Mr. White is a member of the class certified in this matter and should be contacted only through plaintiffs' counsel.

jjj. Mary Williams, 612 Setliff, Lufkin, TX 75904; 936-637-0605. Please note that Ms. Williams is a class representative in this matter and should be contacted only through plaintiffs' counsel.

kkk. Jeff Yount, 6089 U.S. Highway 69N, Pollock, TX 75969; 936-853-4847.

Dated: June 16, 2003

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Dated: June 16, 2003

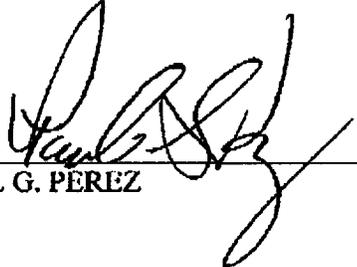
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EXHIBIT B

Industries: (i) Travis Amie; (ii) Viron Barbay; (iii) Perry Bell; (iv) Fremon Bryant; (v) Steve Conway, (vi) Byron Coutee; (vii) Gerald Coutee; (viii) Walter Culpepper; (ix) Richard Gilley; (x) Jay Glick; (xi) John Havard; (xii) Lemon Hamilton; (xiii) David Jinkins; (xiv) Larry Long; (xv) Kingsley McKay; (xvi) Paul Perez; (xvii) Steven Reynolds; (xix) Louis Ross; (xix) Charles Shattuck; (xx) Lenneth Sowell; and (xxi) Curtis Thomas. All of these individuals live and work in the Lufkin, Texas area. The individuals are important to Lufkin's day-to-day operations and are responsible for addressing the daily problems and requirements of Lufkin's customers and the employees under their supervision. Their continued or prolonged absence from the Lufkin area would disrupt Lufkin's operations.

8. Of the 21 individuals identified in paragraph 7 of this Affidavit, five are responsible for Lufkin's day-to-day manufacturing and production operations in its four primary business divisions: (a) Larry Long is the Oilfield Manufacturing Manager; (b) David Jinkins is the Power Transmission Manufacturing Manager; (c) Jay Glick is the Vice President and General Manager of the Power Transmission Division; (d) Richard Gilley is the Trailer Manufacturing Manager; and (e) Steven Reynolds is Foundry General Manager, Foundry Division. In addition, Steve Conway is the Information Systems Senior Project Leader, who is in charge of Lufkin's information management systems companywide. These individuals are critical to Lufkin's manufacturing and production operations. Their continued or prolonged absence from the Lufkin area would disrupt Lufkin's operations.

Further affiant sayeth not.



PAUL G. PEREZ

Subscribed and sworn to before me the undersigned authority on this the 3rd day of July, 2003.

Beverly Selman
NOTARY PUBLIC

