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7-11-03

FILED - CLERK  
U.S. DISTRICT COURT

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

2003 JUL 11 PM 4:24

TX EASTERN LUFKIN

BY 

SYLVESTER MCCLAIN, et. al.,  
Plaintiffs,

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vs.

Case No. 9:97-CV-63  
Judge Howell Cobb

LUFKIN INDUSTRIES,  
Defendant.

**ORDER**

Before the court are nine motions. After review of the record and upon consideration, the court made the following rulings at the July 11, 2003, hearing. This order is to clarify and supplement the rulings made from the bench, is not intended as a complete summary of those rulings, and should be read in conjunction with the hearing transcript. Accordingly, it is

**ORDERED**, Defendant's Motion to Dismiss Plaintiffs' Disparate Treatment Class Claims (Dkt #117), filed July 3, 2000, is **GRANTED** to the extent that any disparate treatment or individual claims, if asserted, will be severed from this case. Any such claims will be considered to have been part of this action until severed, thereby tolling the limitations periods. Potential damages in this action will be limited to those available under disparate impact claims. It is further,

**ORDERED**, Plaintiff Class' Motion to Bifurcate Trial and for Discretionary Notice (Dkt #144), filed October 3, 2000, is **DENIED** as to bifurcation and **GRANTED** as to notice. Notice shall be published and sent to all class members, as identified by the plaintiff representatives. It shall inform the individuals they are part of a disparate impact class action against Lufkin Industries, the action is not for disparate treatment or individual claims and class members are responsible for pursuing those claims individually, any individual claims will be severed if pursued, class members can pursue certain individual claims and still be a member of the class, this action only seeks

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injunctive and equitable relief, class members may opt-out of the lawsuit with the court's approval if they wish to pursue a separate action or if they do not wish to be a part of any action against Lufkin Industries. The notice shall provide procedures for class members to respond. It is further,

**ORDERED**, Plaintiffs' Request for Relief (Dkt #191), filed June 3, 2003, has been **GRANTED**. It is further,

**ORDERED**, Plaintiffs' Motion for Protective Order to Prohibit Defendant from Seeking Discovery from Absent Class Members (Dkt #192), filed June 9, 2003, is **GRANTED** to the extent that defendant shall seek approval from the court before engaging in discovery, beyond that granted at the hearing, of absent class members. Plaintiff representatives shall furnish the names and addresses of all class members, but defendant shall not seek additional information, including social security numbers, without showing of good cause for such discovery. It is further,

**ORDERED**, Defendant's Motion to Compel Answers to Interrogatories and to Expand Number of Interrogatories to 50 (Dkt #187), filed May 12, 2003, is **DENIED**. It is further,

**ORDERED**, Defendant's Motion for Leave to Serve Written Discovery on Class (Dkt #194), filed June 20, 2003, is **DENIED**, subject to Defendant obtaining approval from the court. It is further,

**ORDERED**, Defendant's Second Motion to Compel Responses to First Set of Interrogatories Nos. 1 and 2 (Dkt #203), filed July 3, 2003, is **GRANTED** to the extent that plaintiffs shall be required to supplement their responses to the interrogatories within ten days. Plaintiffs shall answer with greater particularity. It is further,

**ORDERED**, Defendant's Objection to Trial in Beaumont and Motion to Transfer Case to Lufkin for Trial (Dkt #202), filed July 3, 2003, is **DENIED**. This is an equitable matter to be tried before the court, and the trial will be held in Beaumont in accordance with the Docket Control

Order, signed April 16, 2003, as submitted and agreed upon by the parties. It is further,

**ORDERED**, Plaintiffs' Request to Discover Redacted Portions of Lufkin Industries Affirmative Action Plans, written May 5, 2003, is **GRANTED** to the extent that defendant shall furnish the requested materials for *in camera* inspection by the court for review of their relevance. It is further,

**ORDERED**, any individual who is to testify at trial shall be designated and made available for deposition. In addition, the defendant may take the depositions of up to twenty absent class members. The plaintiff may also take up to twenty depositions.

Signed this 11th day of July, 2003.



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HOWELL COBB  
UNITED STATES DISTRICT JUDGE