

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION

KENNITH McDOWELL, ROBERT *
MAULDING, LUTHER STRIPLING, *
RUDY KYLE, FRED DOLLAR, JAMES *
JOSLIN, JAMES MILNER, JOE ELLIS, *
DAVID ELLIS, DANIEL STRIPLING, and *
JANET STRIPLING, *

Plaintiffs, *

vs. *

No. 4:08-cv-03979-SWW-HDY

ELBERT PRICE, individually and as Trustee *
for these plans: Bud Price’s Excavating *
Service Inc. Profit-Sharing Plan, Bud Price’s *
Excavating Service, Inc. Retirement Plan, *
Price’s Utility Contractors, Inc. Retirement *
Plan and for six unnamed plans; MARY *
RUTH PRICE, individually and as Trustee *
for these plans: Bud Price’s Excavating *
Service, Inc. Profit-Sharing Plan, Bud Price’s *
Excavating Service, Inc. Retirement Plan, *
Price’s Utility Contractors, Inc. Retirement *
Plan and for six unnamed plans (Plans A-F); *
Bud Price’s Excavating Service, Inc. *
Profit-Sharing Plan; Price’s Utility Contractors, *
Inc. Retirement Plan; Bud Price’s Excavating *
Service, Inc. Retirement Plan; six unnamed *
plans (Plans A-F); Price’s Utility Contractors, *
Inc. as plan administrator for Price’s Utility *
Contractor’s Inc., Retirement Plan and up to *
six unnamed plans; Bud Price’s Excavating *
Service, Inc. as plan administrator of Bud *
Price’s Excavating Service, Inc. Profit- *
Sharing Plan, Bud Price’s Excavating Service, *
Inc. Retirement Plan, and up to six unnamed *
plans (A-F), *

Defendants. *

ORDER

Plaintiffs Kenneth McDowell, Robert Maulding, Luther Stripling, Rudy Kyle, Fred
Dollar, James Joslin, James Milner, Joe Ellis, David Ellis, Daniel Stripling, and Janet Stripling,

former employees or beneficiaries of former employees of defendants Bud Price's Excavating Service, Inc. and Price's Utility Contractors, Inc., bring this action pursuant to the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. § 1001 *et seq.*, to have their benefits under certain profit sharing plans and defined benefit plans maintained by defendants determined and paid. The matter was referred to Magistrate Judge H. David Young for further proceedings and recommendation.

Plaintiffs appeal [doc.#421] the Magistrate Judge's September 1, 2011 Order [doc.#419] denying their motion [doc.#389] to re-open discovery, denying their motion [doc.#401] for sanctions, denying their motion [doc.#407] to remove the current trustees and plan administrators for all three named defendant plans, denying their motion [doc.#409] requesting permission to enter onto land allegedly purchased with plan monies and for subsequent discovery if logging has occurred, and denying their motion [doc.#411] requesting entry of satisfaction of judgment and imposition of statutory sanctions against James E. Turpin.¹ The Court has considered the arguments raised by plaintiffs and finds no basis for setting aside the Magistrate Judge's September 1, 2011 Order. Accordingly, the Court denies plaintiff's appeal of the Magistrate Judge's Order.²

IT IS SO ORDERED this 19th day of September 2011.

/s/Susan Webber Wright

UNITED STATES DISTRICT JUDGE

¹ This is plaintiffs' sixth appeal of an Order of the Magistrate Judge since March 2010. See document entries 268, 293, 368, 382, and 394.

² The Court notes that a hearing on the motions for summary judgment [doc.#'s 318, 320, and 330] is scheduled for September 27, 2011.