

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.#531] the Magistrate Judge's April 4, 2012 Order [doc.#524] that ordered defendants to file certain re-calculation of benefits owed from the 1997 defined benefit plan by the close of business on April 23, 2012, and to support their re-calculation of benefits with the appropriate documentation.<sup>1</sup> The Court has considered the arguments raised by plaintiffs and finds no basis for setting aside the Magistrate Judge's April 4, 2012 Order.<sup>2</sup> Accordingly, the Court denies plaintiff's appeal of the Magistrate Judge's Order.

IT IS SO ORDERED this 12<sup>th</sup> day of April 2012.

/s/Susan Webber Wright  
UNITED STATES DISTRICT JUDGE

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<sup>1</sup> This is plaintiffs' eighth appeal of an Order of the Magistrate Judge since March 2010. See document entries 268, 293, 368, 382, 394, 421, and 504.

<sup>2</sup> Plaintiffs point to a typographical error in the second sentence of the Magistrate Judge's order (the defendants are referred to as plaintiffs) but this has no bearing on the substance of the Magistrate Judge's Order.