

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS

IN RE: PRE-STATUS CONFERENCE
IN THIRTY-TWO DOLGENCORP, INC., CASES

ORDER

To make the status conference set for November 2, 2010, before District Judge James Gritzner and Magistrate Judge Jerry Cavaneau, as productive as possible, and to give counsel guidance in preparation, the Court orders the following:

Parties Plaintiff

Exhibit A to the Northern District of Alabama's order transferring these cases to the Eastern District of Arkansas shows thirty-two cases transferred. However, two of the named Plaintiffs on that list do not appear as named Plaintiffs in Exhibit D to the second amended complaint, which exhibit purports to list all Plaintiffs. They are:

Cora Hill, EDAR No. 4:10cv00275 (NDAL No. 7:06cv02394)

Elizabeth Rains, EDAR No. 5:10cv00112 (NDAL No. 7:06cv02412)

Counsel should clarify the status of these two Plaintiffs and file appropriate pleadings to reflect that status.

Also, attached to this order is the list of cases transferred, showing both the Eastern District of Arkansas and the Northern District of Alabama case numbers. Counsel should check this list to verify that it is complete and accurate as to all Arkansas residents with pending claims based on the allegations of the second amended complaint. I note that Exhibit D to the second amended complaint included 108 Arkansas residents.

(Presumably, the claims of the seventy-six residents whose cases were not transferred have been dismissed for various reasons, but Plaintiffs' counsel must verify that this assumption is correct.)

The filings required under this section must be made on or before October 29, 2010.

Discovery

I have reviewed Defendants' response to Plaintiffs' motion to stay discovery and other pretrial motions, but the status of discovery in the Arkansas cases remains unclear.¹ Prior to the status conference, counsel must confer and be prepared to inform the Court as to:

1. what discovery has been done and what remains to be done, with the parties' suggested timetable for completing that discovery;
2. any agreements the parties have reached regarding discovery which would apply to these cases;
3. whether the cases should be consolidated for discovery purposes;
4. whether either party will be seeking discovery of electronically stored information (ESI), and if so, whether they have been able to agree on preservation of ESI, search protocols, form of production, and non-waiver as to privileged or work product protected materials;
5. whether any protective orders will be sought;

¹Defendants allege that for one category of cases, discovery is complete except for depositions of individual Plaintiffs. For another category, they allege that an agreement has been reached regarding discovery.

6. whether there are unresolved discovery issues and, if so, the parties should be prepared to discuss their respective positions on those issues; and,
7. any proposals counsel would make regarding an overall discovery plan to govern the conduct of remaining discovery.

Settlement

The practice in the Eastern District of Arkansas is that parties will not be required to engage in settlement conferences. However, it strikes me that it may be in the parties' best interests to explore whether early settlement would be possible, perhaps before incurring substantial costs in taking further discovery. With that in mind, the parties should also be prepared to discuss:

8. whether a settlement conference designed to try to settle all claims as a group would be feasible, and the best procedures for conducting such a conference;²
9. whether the parties feel they have enough information at this point to engage in meaningful settlement negotiations;
10. any suggestions counsel might have as to how settlement discussions could best be conducted, either early in the case or when discovery is complete.

General

Counsel should also be prepared to discuss:

11. precisely what sections of the FLSA and regulations govern the Arkansas cases;
 12. what pretrial motions are anticipated and what deadlines would be appropriate;
- and,

²I would assume that Plaintiffs would have to agree on a percentage distribution prior to any such conference.

13. any suggestions they have to secure the just, speedy, and inexpensive determination of these actions from this point forward.

IT IS SO ORDERED this 13th day of October, 2010.


UNITED STATES MAGISTRATE JUDGE

Exhibit A

| | Transferred Court | Last Name | First Name | Alabama Northern District Case # |
|-----|---------------------------|----------------------------------|------------|----------------------------------|
| 1 | ARKANSAS EASTERN DISTRICT | Benton Montgomery 5:10CV00111 | Shellia | 7:06cv02359 |
| 2 | ARKANSAS EASTERN DISTRICT | Beth 1:10CV00024 | Katherine | 7:06cv02361 |
| 3 | ARKANSAS EASTERN DISTRICT | Brown 5:10CV00113 | Michelle | 7:06cv02365 |
| 4 | ARKANSAS EASTERN DISTRICT | Butler 4:10CV00255 | Timothy | 7:06cv02368 |
| 5 | ARKANSAS EASTERN DISTRICT | Carpenter 1:10CV00025 | Diana | 7:06cv02369 |
| 6 | ARKANSAS EASTERN DISTRICT | Caskey 2:10CV00055 | Virginia | 7:06cv02370 |
| 7 | ARKANSAS EASTERN DISTRICT | Ely 5:10CV00115 | Melvin | 7:06cv02377 |
| 8 | ARKANSAS EASTERN DISTRICT | Fuller 4:10CV00260 | Mary | 7:06cv02381 |
| 9 | ARKANSAS EASTERN DISTRICT | Gresham 5:10CV00114 | Anna | 7:06cv02382 |
| 1 0 | ARKANSAS EASTERN DISTRICT | Haff 3:10CV00088 | Bonnie | 7:06cv02384 |
| 1 1 | ARKANSAS EASTERN DISTRICT | Harris Fields 4:10CV00267 | Tisha | 7:06cv02389 |
| 1 2 | ARKANSAS EASTERN DISTRICT | Henry 5:10CV00116 | Alma | 7:06cv02390 |
| 1 3 | ARKANSAS EASTERN DISTRICT | Henry 3:10CV00089 | Maggie | 7:06cv02391 |
| 1 4 | ARKANSAS EASTERN DISTRICT | Higgins 3:10CV00090 | Donna | 7:06cv02393 |
| 1 5 | ARKANSAS EASTERN DISTRICT | Hill 4:10CV00275 | Cora | 7:06cv02394 |
| 1 6 | ARKANSAS EASTERN DISTRICT | Hill 5:10CV00118 | Terri | 7:06cv02395 |
| 1 7 | ARKANSAS EASTERN DISTRICT | Jackson 4:10CV00278 | Terry | 7:06cv02446 |
| 1 8 | ARKANSAS EASTERN DISTRICT | Lepley 2:10CV00054 | Judy | 7:06cv02400 |
| 1 9 | ARKANSAS EASTERN DISTRICT | McColpin 4:10CV00276 | Robert | 7:06cv02402 |
| 2 0 | ARKANSAS EASTERN DISTRICT | McGee 3:10CV00087 | Helen | 7:06cv02403 |
| 2 1 | ARKANSAS EASTERN DISTRICT | McKinney 4:10CV00269 | Donna | 7:06cv02404 |
| 2 2 | ARKANSAS EASTERN DISTRICT | Niccum 4:10CV00270 | Caroline | 7:06cv02408 |
| 2 3 | ARKANSAS EASTERN DISTRICT | Rains 5:10CV00112 | Elizabeth | 7:06cv02412 |
| 2 4 | ARKANSAS EASTERN DISTRICT | Ramsey 4:10CV00271 | Reggie | 7:06cv02413 |

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|---|---|---------------------------|---------------------------|-----------|-------------|
| 2 | 5 | ARKANSAS EASTERN DISTRICT | Reddell 4:10CV00272 | Peggy | 7:06cv02415 |
| 2 | 6 | ARKANSAS EASTERN DISTRICT | Standridge 5:10CV00117 | Carolyn | 7:06cv02423 |
| 2 | 7 | ARKANSAS EASTERN DISTRICT | Tapp 4:10CV00277 | Wilma | 7:06cv02460 |
| 2 | 8 | ARKANSAS EASTERN DISTRICT | Thornton 2:10CV00056 | Mary | 7:06cv02426 |
| 2 | 9 | ARKANSAS EASTERN DISTRICT | Underwood 4:10CV00273 | Michelle | 7:06cv02428 |
| 3 | 0 | ARKANSAS EASTERN DISTRICT | Warren 5:10CV00119 | Melody | 7:06cv02430 |
| 3 | 1 | ARKANSAS EASTERN DISTRICT | Williams 1:10CV00026 | Charlotte | 7:06cv02431 |
| 3 | 2 | ARKANSAS EASTERN DISTRICT | Willis 3:10CV00091 | Viola | 7:06cv02432 |