

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

DELICE RODRIQUE and MARTIN
SCHAEFER, individually and on
behalf of all others similarly
situated,

Plaintiffs,

vs.

Case No. 2:03-cv-519-FtM-33SPC

ECKERD CORPORATION,

Defendant.

_____ /

ORDER

This matter comes before the Court on Plaintiff's Motion to Proceed with "Bellwether" Trials (Doc. # 267), which was filed on February 6, 2006.

Plaintiff seeks an order allowing Plaintiffs to proceed with "Bellwether" trials.¹ Plaintiff's motion states, "This Plaintiff and four Opt-in Plaintiffs, Abiloa George, William Nesbitt, Teresa

¹The court in In re: Chevron, 109 F.3d 1016, 1019 (5th Cir. 1997), described "bellwether trials" as follows:

A bellwether trial is designed to achieve its value ascertainment function for settlement purposes or to answer troubling causation or liability issues common to the universe of claimants has a core element representativeness- that is, the same must be a randomly selected one of sufficient size so as to achieve statistical significance to the desired level of confidence in the result obtained. Such samples are selected by the application of the science of inferential statistics. The essence of the science of inferential statistics is that one may confidently draw inferences about the whole from a representative sample of the whole.

Tomlinson, and Steve Schnitizius could reasonably present appropriate 'test' cases for the remaining 2,706 Opt-in Plaintiffs in this Fair Labor Standards Act, 29 U.S.C. § 201 *et seq.* collective proceeding." (Doc. # 267 at 1).

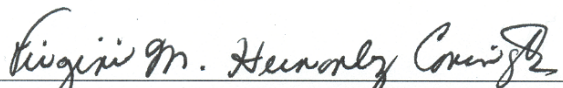
There are a variety of valid bases to deny the present motion to proceed with "Bellwether" trials. The Court denies the motion as an imprudent allocation of judicial resources.

Accordingly, it is now

ORDERED, ADJUDGED, and DECREED:

1. Plaintiff's Motion to Proceed with "Bellwether" Trials (Doc. # 267) is **DENIED**.

DONE and **ORDERED** in Chambers in Ft. Myers, Florida, this 2nd day of March, 2006.


VIRGINIA M. HERNANDEZ COVINGTON
UNITED STATES DISTRICT JUDGE

Copies: All Counsel of Record