

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION**

**JEAN PLUVIOSE AND OTHERS
SIMILARLY SITUATED,**

Plaintiffs,

-vs-

Case No. 6:08-cv-10-Orl-31KRS

**AMERICAN COACH LINES OF
ORLANDO, INC.,**

Defendant.

ORDER

On July 31, 2009, Magistrate Judge Spaulding entered a Report and Recommendation (Doc. 132), recommending that Defendant's Motion for Sanctions (Doc. 125) be GRANTED. Plaintiff filed timely objections to the Report (Doc. 133). Defendant responded (Doc. 134). Upon *de novo* review of the above, the Court generally concurs with the recommendation of the Magistrate Judge. However, the Defendant's motion does not detail any sanctionable conduct on the part of Plaintiffs' counsel, and the motion did not put him on notice that the Defendant sought sanctions against him as well as against his clients. Under these circumstances, it would not be just to impose sanctions against Plaintiffs' counsel. It is, therefore

ORDERED that:

1. The Report and Recommendation of the Magistrate Judge is Adopted and Confirmed in part;

2. The Defendant's Motion for Sanctions is GRANTED IN PART and DENIED IN PART, as follows:

a. The consents to join filed by the 68 opt-in plaintiffs listed on page 3 of the Report and Recommendation are hereby **STRICKEN**, and their claims are **DISMISSED WITHOUT PREJUDICE**;


b. The consents to join filed by the 54 opt-in plaintiffs listed on page 4 of the Report and Recommendation are hereby **STRICKEN**, and their claims are **DISMISSED WITHOUT PREJUDICE**;

c. The consents to join filed by Scott Peters, Carol Robinson, Shaikh A. Karim, Exilien Predelus and Ernest Lewis are hereby **STRICKEN**, and their claims are **DISMISSED WITHOUT PREJUDICE**. The Defendant may file a renewed motion for sanctions as to Marcelin Blaise, Enrique Cruz, Carl Jacques, and Justin Pierre after conferring with counsel for Plaintiffs in a good faith effort to resolve the question of whether the supplemental responses to discovery were sufficient;

d. The 68 opt-in plaintiffs listed on page 3 of the Report and Recommendation, the 54 opt-in plaintiffs listed on page 4 of the Report and Recommendation, Scott Peters, Carol Robinson, Shaikh A. Karim, Exilien Predelus and Ernest Lewis are **ORDERED**, jointly and severally, to pay the reasonable expenses incurred by the Defendant in filing the motion to compel (Doc. 104) and the motion for sanctions (Doc. 125). The Defendant is directed to file an

accounting of those fees and expenses on or before August 28, 2009. Counsel for Plaintiffs may file an objection as to the reasonableness of that accounting on or before September 11, 2009.

DONE and **ORDERED** in Chambers, Orlando, Florida on August 14, 2009.


GREGORY A. PRESNELL
UNITED STATES DISTRICT JUDGE

Copies furnished to:

United States Magistrate Judge
Counsel of Record
Unrepresented Party