

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

LUTHER J. COBURN,)	
)	
Plaintiff,)	
)	
v.)	No. 11 C 8308
)	
LAND & LAKES, RIVER BEND)	
PRAIRIE RECYCLING & TRANSFER)	
FACILITY,)	
)	
Defendant.)	

MEMORANDUM ORDER

This Court's November 28, 2011 memorandum order ("Order") explained this to pro se plaintiff Luther Coburn ("Coburn"):

Although Coburn would appear to qualify for in forma pauperis status from a purely financial perspective, our Court of Appeals teaches that he must also demonstrate the existence of a claim that is nonfrivolous (in the legal sense of that term). It is that last hurdle that Coburn has failed to surmount.

And Order at 2-3 then went on to explain that it was the untimeliness of Coburn's employment discrimination and retaliation lawsuit that called for the denial of his In Forma Pauperis Application ("Application").

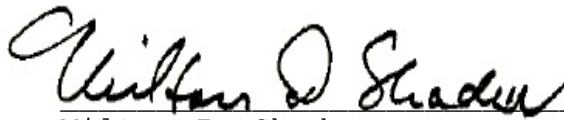
That said, the Order concluded in this fashion, with the cautionary caveat set out in n. 3:

This court will not however dismiss this action, because (as stated in the preceding paragraph) most caselaw perceives that time limit as nonjurisdictional. Accordingly if Coburn were to pay the \$350 filing fee on or before December 19, 2011, he could go forward with this case in the first instance.³

³Coburn should understand, however, that this Court would be obligated to deal with any motion to dismiss that

Land and Lakes might file based on untimeliness grounds. If such a dismissal were to be granted, the expensive filing fee would be lost by Coburn.

But what Coburn has done instead of remitting a filing fee is to file, on the appointed December 19 date, another Application containing an amended financial affidavit. Because nothing submitted by Coburn speaks to the issue of untimeliness, the combination of that ground for dismissal plus his nonpayment of the filing fee calls for an order of dismissal. This Court so orders.



Milton I. Shadur
Senior United States District Judge

Dated: December 21, 2011