

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE**

JEREMIAH HUNLEY,)	
Plaintiff,)	
)	
v.)	No. 3:10-cv-455
)	(Phillips)
GLENCORE, LTD., INC., EAST TENN. ZINC)	
CO., LLC, TENNESSEE ZINC SERVS. CO.,)	
LLC, SANDVIK MINING & CONSTR. USA,)	
LLC, SANDVIK MINING & CONSTR. OY,)	
and DETROIT DIESEL CORP.,)	
Defendants.)	

ORDER

I. Introduction

This matter is before the Court on the motions to dismiss filed by Defendant Sandvik Mining and Construction USA, LLC [Doc. 10]; Defendants East Tennessee Zinc Company, LLC and Tennessee Zinc Services Company, LLC [Doc. 20]; Defendant Detroit Diesel Corporation [Doc. 23]; Defendant Glencore Ltd., Inc. [Doc. 31]; and Defendant Sandvik Mining and Construction Oy [Doc. 34].

For the reasons contained in the accompanying Memorandum Opinion, the motions filed by Defendants Sandvik Construction and Mining USA, LLC [Doc. 10], Sandvik Construction and Mining Oy, LLC [Doc. 34], and Detroit Diesel Corporation [Doc. 23] to dismiss Plaintiff's claims as barred by the applicable Tennessee statute of limitations are hereby **GRANTED**, and said defendants are **DISMISSED** from this action.

Defendant Tennessee Zinc Services Company, LLC and East Tennessee Zinc Company, LLC's motion to dismiss [Doc. 20] and Defendant Glencore Ltd., LLC's motion to

dismiss [Doc. 31] are **GRANTED IN PART** and **DENIED IN PART AS PREMATURE**. Defendants' motion to dismiss Plaintiff's claims against Tennessee Zinc Services as barred by the exclusivity provision of the Tennessee Workers' Compensation Act is **GRANTED**, and Tennessee Zinc Services is **DISMISSED** from this action. And as the Court finds the jurisdictional allegations in Plaintiff's Complaint insufficient to establish the Court's subject matter jurisdiction over this matter, Defendants' motion to dismiss for lack of subject matter jurisdiction is **GRANTED without prejudice** to Plaintiff's ability to file **on or before April 16, 2012**, an Amended Complaint against East Tennessee Zinc and Glencore, after which said Defendants may file renewed motions to dismiss.

IT IS SO ORDERED.

ENTER:

s/ Thomas W. Phillips
United States District Judge