

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

CHESTER MARSHALL and RICHARD)
WHITBY,)
)
Plaintiffs,)
)
v.)
)
AMSTED RAIL COMPANY, INC.,)
)
Defendant.)

Case No. 3:10-cv-11-DGW

ORDER

WILKERSON, Magistrate Judge:

On February 15, 2013 a Final Pretrial Conference was held where Plaintiffs were represented by attorneys Paul, Schwarz, and Potashnick and Defendant was represented by attorneys Prophete and Ray. Pursuant to that Conference, the following is hereby **ORDERED**:

1. Attached to this Order is a Proposed Final Pretrial Order with the changes identified and agreed to at the Conference. The parties should be prepared to sign the order on the first day of trial. The changes that have been made by the Court reflect the following:

- a. Section III: Uncontroverted facts will be read to the jury as stipulations of fact.
- b. With consent of parties, Section IV(2)(c) is changed to: “Whether and to what extent Plaintiffs can claim damages for time worked in weeks where the clock rings reflect that they worked for more than 40 hours but where Defendant’s pay record reflects that they were paid for working under 40 hours.”
- c. Section V(A)(4): The parties agree that Defendant may depose Witness Aaron Brookins prior to trial. Defendant withdraws its objection to inclusion of this witness in the proposed Final Pretrial Order.
- d. Section V(A)(9): Plaintiffs withdraws this paragraph.

e. Section V(B)(9): Plaintiffs withdraws their objection. Defendants shall provide, however, the clock rings of witnesses Gore, Watson, Johnson, and Logan within 7 days of the date of this Order.

f. Section IX: Trial Briefs shall be filed by February 20, 2013.

g. Section X(C): There will be a minimum of 8 jurors.

2. The Court has reviewed the Parties' voir dire questions. The Court will conduct general voir dire and the parties are granted 15 minutes to conduct their own voir dire. The parties are reminded that while they may ask follow-up questions, they should not ask repetitive questions. The parties are also reminded to review their questions and be more circumspect in their questioning. Impertinent or irrelevant questions will not be tolerated.

3. Plaintiffs' Motion in Limine (Doc. 246) is found to be **MOOT**. Defendant does not object to the exclusion of Plaintiff Whitby's charge of race discrimination from evidence in this case. Defendant's Motion in Limine (Doc. 247) will be taken up at trial.

4. The parties shall appear by 8:00 A.M. on the first day of trial.

DATED: February 15, 2013

DONALD G. WILKERSON
United States Magistrate Judge