

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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PHILIP EMIABATA and  
SYLVIA EMIABATA,

Plaintiffs,

v.

MARTEN TRANSPORT, LTD. and  
FREIGHTLINER, INC.,

Defendants.

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AMENDED  
SCHEDULING ORDER

07-C-465-C

On February 28, 2008, this court held a recorded telephonic status and scheduling conference. Both plaintiffs participated, representing themselves. Defendants were represented by counsel. Our goal was to attempt to get this case back on track. I am not confident that we succeeded, but I will hope for the best.

First, I endorsed defendants' request for permission to depose defendants on March 13 and 14, 2008 due to scheduling conflicts, as opposed to the earlier dates directed in Judge Crabb's order. Indeed, even mid-March may be too early because the court has given plaintiffs until March 7, 2008 within which to respond to defendants' motion to compel discovery, and it is clear from plaintiffs' report during our conference that they do not intend to provide all of the requested information. Defendants noted that they intentionally have reserved some of their seven hours of deposition time for use at a later date if necessary because they are concerned that at the time of the depositions they will not have received from the plaintiffs all of the information defendants have requested. This is a legitimate concern, but it's possible that

everything will work out, all the information that needs to be exchanged will be exchanged, and the depositions will go smoothly.

If not, then we will attempt once again to get discovery on track. As defendants note, this lawsuit has been pending in this court since last August (after the court in Texas transferred it here) but plaintiffs have yet to provide any written discovery to defendants despite repeated demands. Although I suggested that plaintiffs take a less defensive and confrontational approach to discovery in their lawsuit, they denied that they were doing so and again blamed defendants and the court—or more specifically, me—for the problems that have occurred. Actually, this court has given plaintiffs two or three kicks at the cat, which is more than most pro se plaintiffs are allowed; it is unlikely that they will get more. As I observed at the telephonic conference, plaintiffs' allegations of racial discrimination are very serious, so it is very important to everyone that all discoverable information relevant to these allegations is disclosed in this lawsuit so that the court or a jury can render a true, just decision.

That said, the current schedule is stricken in favor of these dates:

Disclosure of any expert witnesses: Plaintiffs: March 28, 2008

Defendants: April 25, 2008

Deadline for filing dispositive motions: May 9, 2008

Discovery cutoff: August 8, 2008

Disclosure of Rule 26(a)(3) material and motions in limine: August 15, 2008

Responses and objections: August 29, 2008

Final pretrial conference: September 8, 2008 at 8:30 a.m.

Jury selection and trial: September 8, 2008 at 9:00 a.m.

In all other respects, the pretrial conference order and attachments remain in effect.

Entered this 29<sup>th</sup> day of February, 2008.

BY THE COURT:

/s/

STEPHEN L. CROCKER  
Magistrate Judge