

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY
LEXINGTON DIVISION

CIVIL ACTION NO. 06-299-JBC

JUSTIN CRAWFORD, ET AL.,

PLAINTIFFS,

V.

ORDER

LEXINGTON-FAYETTE URBAN
COUNTY GOVERNMENT,

DEFENDANT.

* * * * *

A hearing was held on October 26, 2006, on the defendant's motion to stay ruling on plaintiffs' motion to certify class. Thomas Miller, Elizabeth Woodford and Michelle Hurley were present for the plaintiffs; George Miller, LaToi Mayo and Sharon Gold were present for the defendant. The proceedings were reported by Peggy Weber.

The court having heard from counsel and being sufficiently advised,

IT IS ORDERED that the motion to stay [DE 2] is **GRANTED**.

IT IS FURTHER ORDERED that discovery shall be conducted for a period of 60 days from the date of this order on only two issues: (1) the conditional certification issue and (2) whether state law issues predominate or FLSA issues are superior.

IT IS FURTHER ORDERED that the plaintiffs shall file a motion requesting permission for the Rule 23 and FLSA actions to proceed simultaneously not later than November 26, 2006. Defendant may file a response after completion of discovery on the conditional certification issue, or earlier if they wish. Plaintiffs' reply time shall be governed by the Local Rules.

IT IS FURTHER ORDERED that the parties shall file simultaneous briefs no later than December 16, 2006, on the conditional certification issue.

IT IS FURTHER ORDERED that either party may file a motion for a ruling on any other legal issue no later than November 26, 2006. Response and reply times shall run according to Local Rules.

IT IS FURTHER ORDERED that a hearing on the conditional certification issue is scheduled on January 4, 2007, at 9:00 a.m. The court will set aside 2 days. The parties shall exchange a list of witnesses no later than one week before the hearing.

IT IS FURTHER ORDERED that no later than October 30, 2006, counsel for the plaintiffs shall provide to counsel for defendant a list of all plaintiffs represented by them, including those who have signed consent forms, which shall include identifying information, including name, classification, shift, and length of employment.

IT IS FURTHER ORDERED that no later than the date of the parties' Rule 26(f) meeting, plaintiffs' counsel shall provide defense counsel with a precise, particularized list of the defendant's alleged practices that the plaintiffs challenge in this action.

IT IS FURTHER ORDERED that defense counsel may not approach named plaintiffs or people who are represented by plaintiffs' counsel without the presence of plaintiffs' counsel. Persons are considered to be so represented if they have signed consent forms with defense counsel or if they are named plaintiffs.

IT IS FURTHER ORDERED that defense counsel may approach all employees who are not represented by plaintiffs' counsel in order to determine during this class certification period whether their experiences are represented by the named plaintiffs – that is, whether they satisfy the requirements for Rule 23 or an FLSA collective action. However, because those persons are potential class members, the court will require that before doing so, defense counsel must furnish to plaintiffs' counsel the document or documents which will be given to those people advising them that they may be potential class members and need not talk with defense counsel. Also, defense shall furnish to plaintiffs an exhaustive list of questions which will be asked those employees. Such documents and list shall be furnished to plaintiffs' counsel 10 days after the plaintiffs give to the defendant its list of the practices they challenge in this action.

IT IS FURTHER ORDERED that defense counsel may contact other Detention Center employees with whom the defense counsel believe they have an attorney-client relationship.

IT IS FURTHER ORDERED, based on representations made to the court, that plaintiffs' counsel will continue to refrain from approaching any employee at the Detention Center, regardless of rank, who is not represented by them.

IT IS FURTHER ORDERED that no limits are placed on plaintiffs' counsel on talking with Detention Center employees who approach plaintiffs' counsel about the lawsuit or representation.

IT IS FURTHER ORDERED that because the second amended complaint and third amended complaint merely enumerate additional persons who are represented by plaintiffs' counsel, the defendant is released from the obligation of responding to further amended complaints; however, the defendant may assert new defenses within 10 days of service of each amended complaint.

TIC: 2/30

Signed on October 27, 2006



Jennifer B. Coffman

JENNIFER B. COFFMAN, JUDGE
U.S. DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY