

2000 WL 108831
United States District Court, S.D. New York.

Pamela K. MARTENS, et al. Plaintiffs,
v.
SMITH BARNEY, INC., et al. Defendants.

No. 96 Civ. 3779(CBM). | Jan. 31, 2000.

Opinion

MEMORANDUM OPINION AND ORDER

MOTLEY, J.

***1** This 1996 class action involves charges of workplace gender discrimination against Smith Barney, Inc. and several of its officers. This court certified a settlement class and, in July 1998, approved a settlement agreement between plaintiffs and the Smith Barney defendants ("Smith Barney"). The court approved settlement provided for an independent dispute resolution process ("DRP") at Duke University as a means to adjudicate 22,000 potential individual claims by members of the plaintiff class. The court appointed Stowell & Friedman as class counsel. The settlement also required Smith Barney to implement certain diversity programs and initiatives to benefit all employees and potential employees. The settlement also provided named plaintiffs and other class members with the option to employ their own counsel to represent them during the DRP. The settlement also provided for the creation of a panel of lawyers experienced in the trial of Title VII cases, thereby increasing the number of competent lawyers available to plaintiffs and class members in the DRP.

Kent Spriggs, an attorney practicing in Florida, has submitted several motions in this case on behalf of Cara Beth Walker, Lisa Mays, and Teresa Tedesco, three named plaintiffs. Mr. Spriggs has filed a motion to substitute himself as counsel for these plaintiffs in their capacity as class representatives, thereby replacing Stowell & Friedman the Class Counsel appointed by this court. It is undisputed that each member of the plaintiff class may select an attorney to advocate for her regarding her individual claims in the dispute resolution process. The contested issue in the present motion is the request to allow Mr. Spriggs to replace Stowell & Friedman as Class Counsel.

Also, Mr. Spriggs has filed a motion to enforce the settlement agreement, over which this court retains

jurisdiction, on behalf of the same three named plaintiffs. A fourth named plaintiff, Edna Broyles, who had previously filed a separate motion to enforce the settlement, now joins in the motion filed by Mr. Spriggs. The allegations made, unsupported by affidavits from individuals with personal knowledge, and the relief sought in these motions are quite serious and extensive. These named plaintiffs, for example, seek to void much of the dispute resolution process which has been conducted over the past two years; seek to create a new supplemental panel of attorneys specializing in employment discrimination cases; seek appointment of a special master to monitor the settlement agreement; make allegations of improprieties on the part of counsel for Smith Barney; and seek to replace court appointed class counsel.

Mr. Spriggs' motion to enforce the settlement agreement is denied for its gross failure to comply with the page limits of this court's Individual Calendar Rules. Absent prior approval, this court's individual rules limit memoranda of law to 25 pages and reply memoranda to ten pages. Individual Calendar Rule 2C. Thus, without prior court approval, the 63 page long memorandum of law in support of a motion to enforce the settlement stipulation filed by Mr. Spriggs is procedurally improper and is denied for that reason. If Mr. Spriggs elects to refile this motion in compliance with this court's rules relating to motions, he is instructed that any factual allegations regarding improprieties by class counsel or Smith Barney or both in connection with the DRP be properly supported by affidavits, signed by individuals with personal knowledge of the alleged improprieties.

***2** Mr. Spriggs has 21 days from the date of this order to serve and refile his motion in compliance with this court's rules and the court's instructions herein. Opposing counsel will have 21 days to answer. Mr. Spriggs will have ten days to reply.

The court has found no record from which it can conclude that Mr. Spriggs is currently admitted to practice in the Southern District of New York. Mr. Spriggs has signed each motion paper. The name of a local law firm also appears on the papers. Rule 1.3 of the Local Rules of the United States District Courts for the Southern and Eastern Districts of New York outlines the various routes by which non-admitted attorneys may gain the right to practice in courts within the Southern District. The court also calls Mr. Spriggs' attention to Rule 11 of the Federal Rules of Civil Procedure. Mr. Spriggs must demonstrate compliance with Rule 1.3 prior to entering an appearance before this court. Mr. Spriggs is instructed to submit either proof of admission to practice in the Southern District of New York and current good standing therein or a motion to appear pro hac vice supported by proof of

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admission to practice and current good standing in another jurisdiction.

If a new motion is filed, a hearing is scheduled for Wednesday, April 12, 2000 at 10:00 a.m. in Courtroom 26-A at 500 Pearl St. At that time the court will hear the motion to enforce the settlement stipulation and motion to substitute counsel, meaning that the court will hear testimony of various witnesses and receive exhibits.

Parallel Citations

77 Empl. Prac. Dec. P 46,312