

Cause No. 2004-06779

ERNEST LOGAN LOVEDAY * IN THE DISTRICT COURT
and ELIZABETH LOVEDAY *
 *
VS. * OF HARRIS COUNTY, TEXAS
 *
KAISER GYPSUM COMPANY * 11TH DISTRICT COURT

Cause No. 03CV1868

ERNEST LOGAN LOVEDAY * IN THE DISTRICT COURT OF
and ELIZABETH LOVEDAY *
 *
VS. * GALVESTON COUNTY, TEXAS
 *
KAISER GYPSUM COMPANY * 56TH DISTRICT COURT

PRE-TRIAL ORDER AND ORDER OF REMAND

BE IT REMEMBERED, that on the 11th day of May, 2005, the court completed its pretrial rulings on the above-styled case pursuant to Rule 13 of the Texas Rules of Judicial Administration. During the pre-trial conference, the court made the following rulings:

1. MOTIONS IN LIMINIE. The rulings of the Court on Motions in limine are set forth in the Orders attached to this order. The court will be available to discuss any necessary changes or modifications to the rulings set out in the Order at all times during the trial.
2. EXHIBITS. The Court received into evidence Plaintiffs' Exhibits Number 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 and 12. The Defendant offered no exhibits. No other documents will be received into evidence, except by agreement or on obtaining permission of the pre-trial court.

3. VIDEO DEPOSITIONS. No deposition testimony was offered, and none may be presented to the jury at the trial, except by agreement of counsel or upon obtaining permission of the pre-trial court.
4. CHOICE OF LAW. The court finds that the Plaintiff was, at all times relevant to this suit, a resident of the state of Arkansas. The substantive law of the state of Texas therefore has no relevance to this suit, and the court ORDERS that the substantive law of Arkansas will control this case. The procedural law of the forum state of Texas will govern the proceedings, in that the Texas Rules of Civil Procedure and the Texas Rules of Judicial Administration will apply to the trial.
5. JURY QUESTIONNAIRE. The Court reviewed the jury questionnaire tendered by counsel. With the deletion of the questions relating to political party affiliation and religion, the questionnaire is approved and may be presented to the jury panel, subject to approval by the trial court.

IT IS FURTHER ORDERED that this case is remanded to the 56th District Court of Galveston County for trial in accordance with the rulings made herein. The District Clerk of Harris County is ordered to send the originals of the file of this case to the District Clerk of Galveston County instanter.

SIGNED on the 12th day of May, 2005.

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MARK DAVIDSON
PRETRIAL MDL JUDGE PRESIDING