

IN THE IOWA DISTRICT COURT FOR POLK COUNTY

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LINDA PIPPEN, et al, on behalf of  
themselves and all others similarly situated,  
  
Plaintiffs,

No. LACL107038  
(Consolidated with Case Nos. CL 103856  
& 103122)

v.

THE STATE OF IOWA, et al., AND ALL  
OTHER AGENCIES SIMILARLY  
SITUATED IN USING THE HIRING  
AND PROMOTION PROCESSES OF  
DEPARTMENT OF ADMINISTRATIVE  
SERVICES

**ORDER RE MOTION TO SEVER AND  
REQUEST FOR SCHEDULING  
CONFERENCE**

Defendants.

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1. Defendants' Motion to Sever all non-class-certified claims from the adverse impact class claim and the Defendants' Request for Scheduling Conference for Linda Phippen and Violet LeFlore was heard on March 29, 2011. Assistant Attorney Generals Jeffrey Thompson, Julia Kim, and Tyler Smith were present for Defendants. Attorneys Thomas Newkirk, David Goldman, Michael Carroll, and Katie Ervin Carlson were present for Plaintiffs.

2. Having reviewed the record, heard the arguments of the parties, and being fully advised in the premises, the Court enters this Order Severing Individual Treatment Claims from the Class Impact Claim.

3. Pursuant to Iowa R. Civ. P .1.914, the State's Motion to Sever is granted. All non-class-certified claims shall be severed and tried separately from the adverse impact class claim that was certified on September 28, 2010 and set for trial beginning September 12, 2011. Severance is consistent with this Court's prior Orders, including most recently the Scheduling

Order, stating that non-class-certified claims and the certified adverse impact class claim to proceed on two separate tracks in an orderly fashion.

4. Both the class impact claim and the individual treatment claims involve important societal questions, as the state government's treatment of African Americans is at issue. The Court and the State of Iowa recognize that Plaintiffs' claims, collectively and individually, must be heard in a timely manner.

5. Plaintiffs and Defendants have been diligent in their preparation of the class impact claim for trial. The nature of a class action dictates the pace at which it progresses. The Court appreciates the patience of the individual Plaintiffs as the class action has moved towards certification and trial.

6. In entering this Order, the Court notes that these individual Plaintiffs must continue to be patient as the class impact claim is first resolved before the individual treatment claims.

7. Granting the Motion to Sever and Request for Scheduling Order furthers judicial efficiency and economy and promotes the interests of the class, which must be the primary focus of this litigation. There may be some evidentiary overlap between the class claim and non-class-certified claims. Both should proceed discovery in a manner those ends.

8. Defendants' Motion to Sever all non-class-certified claims from the adverse impact class claim is granted. Plaintiffs shall:

- a. File an amended Class Petition recasting Plaintiffs' class claim consistent with this Court's Order and Ruling Re: Class Certification, *Nunc Pro Tunc*, entered on September 28, 2010. The amended Class Petition will clarify the record and serve as the reference point of the Plaintiffs' class claim; and

- b. File a single separate amended petition recasting the pending individual disparate treatment claims for Plaintiffs' thirty-two class representatives under case number CL 107038-A. The individual disparate treatment claims filed under case number CL 107038-A, as well as case numbers CL 103856 & CL 103122, will for the time being, be set for a group trial beginning December 5, 2011, and shall proceed under a separate scheduling order from CL 107038.

**SO ORDERED** this 6<sup>th</sup> day of April, 2011.

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ROBERT J. BLINK, JUDGE  
Fifth Judicial District of Iowa

Original filed.

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