

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF KENTUCKY  
LOUISVILLE DIVISION

CIVIL ACTION NO. 98-591-C

THOMAS HORN, et al.

PLAINTIFFS,

V.

FINAL ORDER AND JUDGMENT

ROBERT McQUEEN, et al.

DEFENDANTS.

\* \* \* \* \*

The court having considered the parties' pending motions for calculation of losses to the plan and the parties' proposed calculations of pre-judgment interest to be awarded,

**IT IS ORDERED** that the motions (DE 234 and 268) are granted to the extent that final **JUDGMENT** in the amount of \$20,669,927 is entered on behalf of the plaintiffs in this matter.<sup>1</sup> The settlement proceeds received by the plaintiffs on or about July 1, 2002, have been deducted from the court's initial award of \$8,139,116, before prejudgment interest was added. The plaintiffs requested leave of court to file a motion for attorney fees pursuant to 29 U.S.C. § 1132(g), Fed. R. Civ. Pro. 54 (d), and Local Rule 54.4, and to the extent a motion for attorney fees is permitted under those authorities, the plaintiffs are granted such

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<sup>1</sup> The defendants, in their response to the plaintiffs' proposed calculation, noted that Mr. Risius made a mathematical error of \$5,074 in his calculation and asked the court to adjust the award by that amount "if the Court refused to apply the settlement set-off from the initial award . . . ." However, as the court subtracted the settlement amount from the initial award prior to calculating prejudgment interest, the adjustment does not apply to the court's final award.

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leave. In all other respects, the motions are denied.

**IT IS FURTHER ORDERED** that the defendants' motion to strike the plaintiffs' response to the defendants' objections to the Special Master's Report (DE 239) is **DENIED AS MOOT**, as the parties' objections were heard at oral argument and both parties were allowed to supplement their objections to the Report. See DE 249, 253, and 254.

There being no just cause for delay in its entry, this is a **FINAL and APPEALABLE** order.

Signed on January 3, 2005

  
Jennifer B. Coffman, Judge  
United States District Court

**Orders on Motions****3:98-cv-00591-JBC-CCG Horn, et al v. McQueen, et al SM****U.S. District Court****Western District of Kentucky**

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**Case Name:** Horn, et al v. McQueen, et al

**Case Number:** 3:98-cv-591

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**Docket Text:**

ORDER by Jennifer B. Coffman on 1/3/05; granting in part and denying in part [234] Motion for Judgment NOV; final judgment in amount of \$20,669.927 is entered on behalf of the plaintiffs in this matter; settlement proceeds received by plaintiffs on 7/1/02 have been deducted from Ct's initial award of \$8,139,116, before prejudgment interest was added; plas are granted leave to file a motion for attorney fees purs to 29:1132(g), FRCP 54(d) and LR 54.4; in all other respects, motion is denied; denying [239] Motion to Strike plaintiffs' response to the dfts' objections to Special Master's Report as moot; this is a final and appealable order. (SDB)cc:Counsel

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