IN THE UNITED STATES COURT OF APPEALS

FOR THE FIFTH CIRCUIT

No. 94-20355
Summary Calendar

MARIA FUENTEZ, et al.,

Plaintiffs-Appellants,

VERSUS

HOUSTON INDUSTRIES, INC., et al.,

Defendants-Appellees.

Appeal from the United States District Court
for the Southern District of Texas
(CA-H-92-2728)

(October 17, 1994)

Before SMITH, EMILIO M. GARZA, and PARKER, Circuit Judges.

PER CURIAM:[*]

The plaintiff workers appeal a summary judgment denying them relief under the Worker Adjustment and Retraining Notification Act (the "WARN Act"), 29 U.S.C. § 2101 et seq. The plaintiffs assert that they were terminated as part of a mass reduction in force by Houston Lighting and Power Company without the statutory sixty-day notice required by WARN.

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[*] Local Rule 47.5.1 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that rule, the court has determined that this opinion should not be published.

In a comprehensive Memorandum & Order entered March 31, 1994, the district court carefully explained why the plaintiffs have produced no summary judgment evidence showing that an event occurred that would trigger the requirements of WARN. In summary, the layoffs were spread among several locations that do not constitute a "single site of employment" under WARN, and the layoffs were not numerous enough at any one location to meet the threshold requirement as to that site.

We affirm, essentially for the reasons advanced by the district court. Under the circumstances, the appeal is totally without merit and is frivolous. Moreover, in his brief on appeal, counsel for the plaintiffs, Julius Larry, advances arguments that were squarely rejected by this court a month earlier in Williams v. Phillips Petroleum Co., 23 F.2d 930 (5th Cir. 1994). Mr. Larry was plaintiffs' counsel in Williams, yet he failed even to mention that case in his brief to this court. This is a serious violation of Larry's obligation as an officer of this court.

In Williams, we warned Mr. Larry not to file misleading briefs in this court; he was sanctioned with double costs and attorneys' fees under FED. R. APP. P. 38. Despite this admonition, Mr. Larry, only a month later, has filed the instant frivolous brief in another WARN case. Accordingly, we assess double taxable costs on appeal, plus $5,000 in attorneys' fees on appeal, against Mr. Larry and his clients. As we did in Williams, 23 F. 3d at 941, we advise plaintiffs and their counsel that further

vexatious filings, including any frivolous petition for rehearing or suggestion for rehearing en banc, will subject the plaintiffs and their counsel to further sanctions and/or discipline. If Mr. Larry persists in imperviously making frivolous filings in this or any other cases, he can be subjected to limitations upon his ability to appear as counsel in this court.

The appeal is DISMISSED as frivolous. See 5TH CIR. R. 42.2.