

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
FAYETTEVILLE DIVISION

JAMES M. LEONARD

PLAINTIFF

v.

Civil No. 04-5282

**JUNE ELOISE GOIN A/K/A
ELOISE LEONARD AND
INTERNATIONAL TRUCK AND
ENGINE CORPORATION**

DEFENDANTS

ORDER

NOW on this 14th day of February 2006, the above referenced matter comes on for consideration.

1. The plaintiff initiated this matter in the Circuit Court of Washington County, Arkansas on October 12, 2004 when he filed his complaint against the defendants.

2. Separate defendant International Truck and Engine Corporation (hereinafter "International") removed the matter to this Court on November 18, 2004 asserting federal question jurisdiction under 28 U.S.C. § 1331. Specifically, International asserts that this action arises under Sections 502(a)(3) and 502(e)(1) of the Employee Retirement Income Security Act of 1974, ("ERISA"), 29 U.S.C. §§ 1132(a)(3), 1132(e)(1), in that plaintiff seeks equitable relief in the form of an injunction directing International, as the Plan Administrator of the Navistar Financial Corporation Retirement Plan for Salaried Employees, to take specific action to remove plaintiff's former spouse as a beneficiary who may become entitled to a survivor's annuity under

the plan.

3. There has been no motion to remand this matter to state court.

4. Following International's removal to this Court, the Court invited briefs from the parties on the issue of whether this Court has jurisdiction to enter a Qualified Domestic Relations Order. The Court, having reviewed the briefs of the parties, understands International's view to be that, pursuant to ERISA, this Court, ultimately, should deny the relief plaintiff has requested and dismiss the complaint against International. Considering the Court's understanding of International's position, the Court now invites a motion for summary judgment by International to bring the issues of this case properly before the Court for review.

IT IS SO ORDERED.

s/ Jimm Larry Hendren
UNITED STATES DISTRICT JUDGE