IN THE UNITED STATES DISTRICT COURT

FOR THE WESTERN DISTRICT OF WISCONSIN

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RICOH COMPANY, LTD.,

Plaintiff,

v.

ASUSTEK COMPUTER INC., ASUS COMPUTER INTERNATIONAL, QUANTA COMPUTER INC., QUANTA STORAGE INC., QUANTA COMPUTER USA, INC., NEW UNIVERSE TECHNOLOGY, INC., and NU TECHNOLOGY, INC.,

Defendants.

ORDER

06-C-0462-C

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In an order entered in this case on June 1, 2007, I revoked the permission to appear pro hac vice granted previously to Michael Joffre and Daniel Prince as a sanction for their actions in the conduct of discovery in this case. After both lawyers and their firms sought reconsideration of the revocation order, I held a hearing on the request on June 14, 2007. Both Mr. Joffre and Mr. Prince were present in person but did not participate in the hearing. Kenneth Axe, local counsel for plaintiff Ricoh, represented Mr. Joffre. Also present was J.C. Rozendaal, counsel for plaintiff. Todd Smith, local counsel for defendants Quanta Computer, Inc., Quanta Computer USA, Inc. Quanta Storage Inc. and NU Technology, Inc., represented Mr. Prince. Also present was Terry Garnett, representing the Quanta

defendants. Counsel expressed appropriate and apparently genuine remorse for their inability to manage discovery in a civil and professional fashion. Mr. Rozendaal and Mr. Garnett each suggested that the mistakes made were the fault of supervising counsel rather than the two lawyers who were sanctioned. However, I denied the motion for reconsideration.

In choosing the sanction of revocation of pro hac vice privileges, I chose what I thought was a relatively mild penalty for repeated transgressions of the court's procedures and specific orders. A monetary fine was not an option. In a case in which the stakes are as high as they are in this one, any fine would simply be absorbed into overhead. It would not have served to capture counsel's attention.

It appears, however, that what I assumed was a mild penalty is not viewed that way by counsel. They believe that it is a mark of shame that will follow both associates for the rest of their careers, whenever they apply for pro hac vice status in other federal courts. Given the transparency of life in the internet age and the permanency of data, this is probably a reality.

I continue to believe that the discovery transgressions merit a severe sanction. Having given the matter considerable thought since yesterday afternoon, however, I am less sure that it is fair to impose a sanction that dogs Mr. Joffre and Mr. Prince for the rest of their careers, when another sanction might be proportionate to the gravity of the violation. Therefore, I have an option to propose to counsel.

Like all federal courts, this court has a large number of constitutional cases brought

by prisoners on their own behalf without counsel. Some of these prisoners are particularly ill-equipped to prosecute their cases by themselves, because of illiteracy, inability to speak English, mental or emotional difficulties or because of the complexity of the legal issues involved. For a number of reasons, prisoners as a group have great difficulty finding legal representation.

If either Mr. Joffre or Mr. Prince, or both, are willing to provide representation in a prisoner case, I would consider it a fair offset and I would vacate the revocation of pro hac vice status completely, nunc pro tunc. Such a contribution to the legal system would help ameliorate the damage done by counsel's obstructive discovery practices. (In saying this, I do not mean to suggest that this option would necessarily be available to any other firm or lawyer that failed to handle discovery problems appropriately. In this case, counsel have shown very clearly that they take this matter seriously and that they have worked to change their practices.).

So that there is no misunderstanding, to accept this option, the sanctioned lawyer would agree to accept one prisoner case assigned by this court and prosecute it to resolution, that is, to settlement, to a final decision on a motion for summary judgment or to trial. Representation would include filing a notice of appeal, if judgment were entered against the prisoner, but it would not bar the lawyer from seeking leave from the court of appeals to withdraw from representation if he did not want to prosecute the appeal. Counsel's inability to get along with the client would not be a ground for withdrawing from the representation, unless the client asked the lawyer to withdraw, in which case, the court would decide

whether the representation had lasted long enough to count as one case. It would not be necessary for the lawyer to handle the case alone, but all the work must be performed by lawyers in the same firm as the lawyer handling the case.

Counsel could expect that the representation would require at least one visit to the state, to meet personally with the client, and another visit if the case went to trial. The court does not usually hold oral arguments on motions for summary judgment or require in-person appearances for any other matters that come up prior to trial. It does, however, expect that prisoner cases will be handled expeditiously and with the same care afforded paying clients.

ORDER

IT IS ORDERED that the motions for reconsideration of the June 1, 2007 order revoking the pro hac vice authorizations of Michael Joffre and Daniel Prince are DENIED. I am prepared to rescind the revocation of authorization to practice in this court pro hac vice completely, nunc pro tunc, for either or both lawyers if they advise the court that they are willing to accept the option set out in this order.

Entered this 15th day of June, 2007.

BY THE COURT:
/s/
BARBARA B. CRABB
District Judge