

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

SHEET METAL WORKERS
INTERNATIONAL ASSOCIATION
LOCAL NO. 18,

Plaintiff,

v.

AIR CLIMATE SYSTEMS, INC. and
ALL CLIMATE SYSTEMS, INC.,

Defendants.

PRELIMINARY PRETRIAL
CONFERENCE ORDER

3:07-cv-00606-bbc

This court held a recorded telephonic preliminary pretrial conference on January 9, 2008. Plaintiff appeared by Asmaa Abdul-Haqq. Defendant Air Climate Systems appeared by its owner, Vickie Shelton.

Although we did not discuss this at the hearing, I am obliged to note that the law requires a corporate litigant to be represented by an attorney. *See Scandia Down Corp. v. Euroquilt, Inc.*, 772 F.2d 1423, 1427 (7th Cir. 1985). Ms. Shelton's despairing letter to the court (dkt. 6) makes clear that she cannot afford to hire an attorney for her company. Because corporate defendants in civil cases have no right to have an attorney appointed to represent them, there is nothing this court can do to assist Ms. Shelton obtain representation for her company. So although I have used the "pro se" version of the court's preliminary pretrial conference order, Ms. Shelton cannot represent her company during this lawsuit. If she cannot hire an attorney, it does not mean that the defendant automatically loses this lawsuit; the union still will have to make a

prima facie showing of entitlement to relief. But because the corporate defendant is an abstraction, it cannot appear by an officer who is not an attorney.

Read this whole order NOW

This federal civil lawsuit is a serious matter. As a party to a federal civil lawsuit, it is each party's duty to understand what it is supposed to do and when to do it. This court has a number of rules that the parties must follow. Therefore, it is important to read this order now so that the parties can do things the right way.

Review the Federal Rules of Civil Procedure

The Federal Rules of Civil Procedure are the rules that control much of what happens in this lawsuit. Not all of those rules will be important in this case, but some of them will be very important, particularly the rule about summary judgment and the rules about discovery. It is a party's duty to know the rules of procedure that apply to it in this case. This court cannot provide a copy of the rules of procedure. The parties will have to find their own copy of the rules to review.

The Federal Rules of Evidence could be important later in this lawsuit. The rules of evidence affect the parties' submissions for summary judgment motions. Also, if this case goes all the way to trial, the rules of evidence will affect how the evidence is presented at trial. It is each party's duty to know the rules of evidence that apply to it in this case. This court cannot

provide the parties with a copy of the rules of evidence. Each party will have to find its own copy of the rules to review.

Service of documents is REQUIRED:

Every letter, motion, brief, exhibit, or other document that a party files with the court in this lawsuit must be served on its opponent at the same time. This means that whenever a party mails a document to the court, it also must mail a copy of that document to its opponent at the same time. To prove that this, a party must certify service by including with each submission to the court a sentence at the end of the document, or on a separate piece of paper, in which the person who is submitting the document swears that he or she sent a copy through the mail with proper postage to the other party's lawyer. There is no acceptable excuse for not serving documents on the other party.

Scheduling

1. Deadline for Filing Dispositive Motions: April 15, 2008

There are two kinds of dispositive motions: (1) motions to dismiss, and (2) motions for summary judgment. No one may file a dispositive motion after the deadline unless the court grants permission. The court usually does not grant permission to file a late motion, so a party must work hard on this case to meet the deadlines.

A) Motions To Dismiss

Motions to dismiss usually do not require the parties to present evidence or to take discovery. If a defendant files a motion to dismiss, it must submit a supporting brief at the same time.

Plaintiff must file and serve its response to a motion to dismiss within 21 calendar days of service of the motion. The court starts counting these 21 days on the day the motion to dismiss is filed with the court. Any reply brief by the defendant must be filed and served within 10 calendar days of service of the response.

B) Motions for Summary Judgment

Summary judgment is a way for plaintiff or defendants to win this lawsuit (or parts of it) before the trial. Rule 56 of the Federal Rules of Civil Procedure explains how the parties must present their evidence and their legal arguments when they file or respond to a summary judgment motion. Rule 56 is important, so the parties should read it carefully, even before a summary judgment is filed, so that they can be ready for a summary judgment motion and then to do things correctly.

This court has a written set of rules that explains how to file a summary judgment motion and how to respond to an opposing party's summary judgment motion. This "Procedure Governing Summary Judgment" is attached to this order. Because it is hard to prepare everything needed to respond to a summary judgment motion, the court gives parties 30 calendar days to file every part of their response and to serve it on the opposing attorney. The

court will start counting the 30 day response deadline on the day that it receives the other party's motion. Any reply must be filed and served not later than 10 calendar days after service of the response.

BE AWARE: the court will not extend this 30 day deadline. The only way to get more time would be if a party can convince the court that something totally unfair happened that actually prevented this party from meeting its deadline, and that this was completely somebody else's fault. Also, if a party does not follow the court's procedure for how to respond to summary judgment, then the party will not get more time to do it over unless the court decides on its own that the party should get a second chance.

A party may not file more than one motion for summary judgment in this case without first getting permission from the court.

2. Discovery Cutoff: August 1, 2008

"Discovery" is the word used in federal courts to describe how plaintiffs and defendants can learn information and get documents that are useful to deciding this lawsuit. Rules 26 through 37 of the Federal Rules of Civil Procedure explain how to get information and documents from the other side.

The court expects both sides to follow Rules 26 through 37. A party has no right to get information or documents to use in this case except in the way these rules say. If the parties disagree about discovery requests, then this court would like them to try to work it out if they can do so quickly, but the court does not require this if it would be a waste of time. If either side

thinks that the other side is not doing what it is supposed to do for discovery and they cannot work it out, then either the plaintiff or the defendant quickly should file a motion with the court. If the parties do not bring discovery problems to the court's attention quickly, then they cannot complain that they ran out of time to get information that they needed for summary judgment or for trial.

If a party files a motion to compel discovery, or to protect from discovery, or for some other discovery problem, that party also must submit at the same time other documents that show why the court should grant the motion. A party gets only five calendar days to file and to serve a written response to a discovery motion filed against it by its opponent.

The court does not want the parties to file their discovery material with the court, except to support some other matter in this lawsuit, such as a summary judgment motion. Once a document or a copy of a document is in the court's file, no one has to file another copy, as long as the parties make it clear to the court where the court can find the document in the file.

The one kind of discovery material that the parties must file with the court are deposition transcripts, which are due promptly after they are prepared. Deposition transcripts must be in compressed format.

3. Trial: September 2, 2008 at 9:00 a.m.

Trial shall be to the court. The parties estimate that this case will take one day to try. A copy of this court's procedural order for non-jury cases is attached.

This case will be tried in an electronically equipped courtroom and the parties shall present their evidence using this equipment. The parties shall ensure the compatibility of any

of their personal equipment with the court's system prior to the final pretrial conference or shall forfeit their right to use any personal equipment that is not compatible with the court's system.

4. E-Filing.

Parties in this lawsuit may file documents with the court electronically. If a party chooses to file electronically, then it must follow the court's procedures in order to ensure that the court properly receives and docket each submission. The court's procedures, FAQ page, and related information may be found at www.wiwd.uscourts.gov.

5. Electronic Notification

Parties in this lawsuit may receive court notices, briefing schedules and orders electronically. If they choose to participate in this program, they must follow the court's procedures. The court's procedures and related information may be found at www.wiwd.uscourts.gov.

Entered this 9th day of January, 2008.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge