MDW
12-5-08

(2)

VIRGINIA:

IN THE CIRCUIT COURT OF FAIRFAX COUNTY

AMTECH ELEVATOR SERVICES *now known as* ABM AMTECH INCORPORATED, *et al.*,	:	
Plaintiffs,	:	
v.	:	Civil Action No. CL 2008-5909
UNIWEST CONSTRUCTION, INC., *et al.*,	:	
Defendants.	:	

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AGREED ORDER

This matter is before the Court on Defendants' Joint Motion and Memorandum to Incorporate Discovery from Nonsuited Action, and it appearing to the Court that the parties herein consent to the relief requested on the terms set forth in this Order, as evidenced by the endorsement of counsel, and that such relief should be granted, it is hereby

ORDERED, that the following discovery, stipulations, agreed orders, and pretrial submissions in the matter of *Uniwest Construction, Inc, et al. v. Amtech Elevator Services, et al, Case No. CL 2006-13227* (hereinafter "Case No. CL 2006-13227") shall be deemed as incorporated by reference in the above-captioned matter as noted:

1. All interrogatories and requests for documents, and the answers/responses/OBJECTIONS /MDW thereto exchanged in Case No. CL 2006-13227, shall be

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deemed to be incorporated by reference into this matter, and shall not be duplicated. The only duty of the responding party shall be to supplement as required by the rules as if this discovery were filed in the present case;

2. All requests for admission, and the responses AND OBJECTIONS thereto exchanged in Case No. CL 2006-13227, shall be deemed to be incorporated by reference in this matter, and shall not be duplicated;

3. All depositions noted and taken in Case No. CL 2006-13227 shall be treated as if taken in this matter, and may be used in accordance with the rules of procedure. The witness shall not be re-deposed on any document available at the time of their prior deposition or on matters on which there was prior inquiry;

4. All prior stipulations agreed upon in Case No. CL 2006-13227 shall be continued as stipulations in this matter;

5. The stipulated Joint Exhibit List and STIPULATED exhibits as marked in Case No. CL 2006-13227 shall be stipulated trial exhibits and available for use by the parties at the trial of this matter;

6. ~~The prior~~ Any agreed order ENTERED IN THE PRIOR CASE WILL BE RE-SUBMITTED FOR ENTRY IN THIS CASE, TO THE EXTENT SUCH ORDERS REMAIN APPLICABLE. ~~regarding applicable law governing the various contracts, insurance policies and agreements will be re-entered in this case.~~

~~7. The prior agreed order regarding offer of proof of attorneys' fees will be re-entered in this case.~~

and it is further

ORDERED, that any prior reservations, objections or demands raised by any party in Case No. 2006-13227 with respect to any discovery request, deposition question, or alleged deficiencies in any discovery responses and/or depositions are not waived, and are deemed preserved as if asserted in this matter; and it is further

ORDERED, that no party shall be deemed to have waived their rights to conduct further discovery in accordance with the terms of the Scheduling Order that is not duplicative of prior discovery as outlined in items 1 through 7 above; and it is further

ORDERED, that the following motions and oppositions, replies and sur-replies filed in Case No. 2006-13227 shall be deemed to have been filed in this matter:

(A) Federal Insurance Company's Motion for Summary Judgment Against ABM Amtech Inc. and ABM Industries, Inc.;

(B) Federal Insurance Company's Motion for Summary Judgment Against AIU Insurance Co.;

(C) Uniwest Construction, Inc. and United States Fire Insurance Company's Motion for Partial Summary Judgment;

(D) Pennsylvania Manufacturer's Association Insurance Co.'s Motion for Summary Judgment;

(E) AIU's Motion for Summary Judgment;

and it is further

ORDERED, that the ruling of this Court as reflected in the transcript of hearing conducted on Friday, September 21, 2007 in Case No. CL 2006-13227 (attached hereto as Exhibit A) AND THE SUBSEQUENTLY ISSUED WRITTEN ORDER shall be deemed to be the ruling of the Court in response to the motions incorporated by reference in items (A) through (E) above and ~~is~~ ARE hereby incorporated by reference in this matter; and it is further

ORDERED, that the objections of Uniwest Construction, Inc., Unites States Fire Insurance Co., Federal Insurance Company, and Pennsylvania Manufacturers Association Insurance Co. to the September 21, 2007 ruling of the Court as reflected in Exhibit A are fully preserved, and are not waived, and that said parties reserve all of their rights to appeal said ruling.

ENTERED this 5 day of December, 2008.

AND THIS CAUSE IS CONTINUED

JUDGE,
CIRCUIT COURT FOR FAIRFAX COUNTY,
VIRGINIA

WE ASK FOR THIS:

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