

United States Court of Appeals

For the Seventh Circuit

Chicago, Illinois 60604

Submitted October 25, 2011*

Decided November 9, 2011

Before

FRANK H. EASTERBROOK, *Chief Judge*

RICHARD D. CUDAHY, *Circuit Judge*

DANIEL A. MANION, *Circuit Judge*

No. 11-2452

CHICAGO REGIONAL COUNCIL OF CARPENTERS, an
unincorporated association,
Plaintiff/Counter - Defendant-Appellant,

v.

PRATE INSTALLATIONS, INCORPORATED, an Illinois
corporation,
Defendant/Counter - Plaintiff-Appellee.

Appeal from the United
States District Court for
the Northern District of
Illinois, Eastern Division.

No. 10 C 5431
Amy J. St. Eve, Judge.

Order

The Chicago Regional Council of Carpenters filed suit in the district court as a follow-up to our decision of last year, 607 F.3d 467 (7th Cir. 2010), and the litigation was assigned to the same district judge who had handled that suit. Prate Installations filed a counterclaim. For several months the parties exchanged opposing views on the merits (including the preclusive effect of the decisions in the first suit). After the district judge denied the Council's motion to dismiss

* This successive appeal has been submitted to the original panel under Operating Procedure 6(b). After examining the briefs and the record, we have concluded that oral argument is unnecessary. See Fed. R. App. P. 34(a); Cir. R. 34(f)

Prate's counterclaim, the Council decided that everything should be arbitrated. The district judge denied the motion to refer the matter to arbitration, holding that the Council waived its access to arbitration by filing suit and engaging on the merits until becoming dissatisfied by one of the judge's rulings. The Council has filed an interlocutory appeal under 9 U.S.C. §16. We agree with the district court's decision, substantially for the reasons the judge gave. It is unnecessary to repeat them. The judgment is affirmed.