

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
JONESBORO DIVISION

Z CONTRACTING, INC.

PLAINTIFF

Vs.

NO. 3:09-cv-00030 JLH

ASSOCIATED ENGINEERING AND
TESTING, LLC, et al

DEFENDANTS

ASSOCIATED ENGINEERING AND
TESTING, LLC, et al

THIRD-PARTY PLAINTIFF

Vs.

PHASED RIGHT INCORPORATED
d/b/a NEI ELECTRIC POWER ENGINEERING, INC.

THIRD-PARTY DEFENDANT

ORDER

Following the settlement conference on November 4, 2010, the parties have conducted additional discovery and filed additional pleadings. They now want to further explore settlement. It seems best at this point to continue settlement discussions by letter, e-mail and telephone. The issues in the case are complex and it proved difficult to make significant decisions in the compressed time frame of a conference. I do not want to put the parties to the expense of traveling to a second conference before we see whether it would be necessary or helpful.

A good first step would be for the parties to state their views in writing, in order to be sure each fully understands the position of the others and to allow time for careful evaluation of the arguments and evidence. Therefore, counsel are requested to exchange their factual and legal arguments, supporting those arguments with their view of what they

expect the evidence to show at trial. Counsel should send their position statements, by letter or e-mail, to opposing counsel, with a copy of each to me personally.¹ They should **NOT** file them with the Clerk or submit copies to the trial judge. These statements will be considered confidential. Of course, any supporting evidence which would otherwise be admissible at trial will remain admissible, but all discussion, demands, offers, etc., relating to continued settlement negotiations are considered part of the settlement process and will not be admissible or relayed to the trial judge or his staff.

The parties' position statements are to be exchanged no later than Thursday, February 3, 2011. Because I do not know how full your calendars are, you may move for extension of this date on good cause shown, but be mindful that the earlier this first step is taken, the earlier we can explore settlement possibilities. When I have received the statements and had a chance to evaluate them, I will contact you and we will begin renewed negotiations.

IT IS SO ORDERED this 12th day of January, 2011.


UNITED STATES MAGISTRATE JUDGE

¹ Mr. Stone has already forwarded a video copy of Alvin McCartney's deposition.