

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

In re MESATRONIC USA, INC,
Debtor.

INTERNATIONAL CONTACT TECHNOLOGIES
INCORPORATED,

Defendant/Appellant,

v.

MOHAMMED POONJA, TRUSTEE,
Plaintiff/Appellee.

No. C 10-5868PJH
Bankr. Case No. 08-53287 SLJ
Adv. Case No. 09-5049 SLJ

**THIRD ORDER RE RECORD
ON APPEAL**

Per this court's prior November 7, 2011 and November 23, 2011 orders, defendant/appellant International Contact Technologies ("ICT") was required to ensure preparation and transmission of the transcripts to complete the record on appeal before this court **no later than December 6, 2011**. It has not done so.

The court's prior orders advised ICT that to the extent that it failed to provide this court with a transcript of the proceedings below on appeal, the court would defer to the bankruptcy court as to any issues of fact or mixed issues for which transcripts would normally be required. The court's November 23, 2011 order noted that in its November 10, 2011 amended designation of record, ICT had designated transcripts from two proceedings not previously designated for inclusion in the record on appeal: (1) the May 6, 2010 hearing on a motion to strike jury demand; and (2) the November 30, 2010 bench trial. Accordingly, it does appear that ICT desires that the transcripts be included in the record and utilized by the court in its adjudication of its appeal.

1 However, ICT failed to provide the court with the transcripts and/or ensure that the
2 transcripts were provided to the court by the above deadline. Nor did it submit an
3 explanation regarding why the transcripts have not yet been provided to the court. The
4 court will provide ICT with one **final** opportunity to supplement the record with the
5 transcripts. ICT is ORDERED to provide the court with the relevant transcripts **no later**
6 **than Friday, December 23, 2011**. If it fails to do so, the court will adjudicate the appeal
7 without the transcripts, and will defer to the bankruptcy court as to any issues of fact or
8 mixed issues for which transcripts would normally be required. ICT will not be afforded any
9 further opportunity to supplement the record with the transcripts.

10
11 **IT IS SO ORDERED.**

12 Dated: December 16, 2011



PHYLLIS J. HAMILTON
United States District Judge