

United States District Court
For the Northern District of California

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

TYCO THERMAL CONTROLS LLC,
Plaintiff,
v.
REDWOOD INDUSTRIALS, ET AL,
Defendant.

No. C 06-07164 JF

**ORDER DENYING DEFENDANTS'
RENEWED REQUEST TO BE
EXCUSED FROM MEDIATION**

The Court DENIES the renewed requests to permit the corporate representatives of Rowe and Carlisle to appear by telephone at the mediation in this matter.

It appears, from defense counsel's submission, that a settlement could be achieved in this case only if representatives of Rowe and of Carlisle agree to it (which, it is said, they could do over the phone). But before agreeing to terms, Rowe and Carlisle would need to decide whether proposed terms were appropriate. To make that decision, the corporate representatives need to understand the information and the lines of reasoning on which it would be based, e.g., the scientific evidence and historical facts on which apportionment of responsibility would be based, as well as the technical and financial pros and cons of various possible assaults on the task of cleaning up. The Court believes that it would increase the likelihood that the corporate decision-makers would achieve the level of confidence they need in order to decide whether to agree to proposed terms of settlement if the corporate

1 representatives had direct access to these kinds of information -- and an opportunity, directly,
2 to probe and test both the reliability and the implications of the pertinent proffers and
3 arguments.

4 For these reasons, the party representatives must participate in person at the
5 mediation.

6
7 **IT IS SO ORDERED.**

8
9 Dated: August 19, 2009

10 
11 _____
12 WAYNE D. BRAZIL
13 United States Magistrate Judge
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28