

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Magistrate Judge Craig B. Shaffer**

Civil Action No.: 04-cv-01961-LTB-CBS
Date: January 21, 2010

FTR - Reporter Deck - Courtroom A402
Courtroom Deputy: Linda Kahoe

SANFORD LEE HERTZ,

Byeongsook Seo

Plaintiff/Counter Defendant,

LANE LIGHTHART,

Byeongsook Seo

Counter Defendant/Counter Claimant,

v.

LUZENAC AMERICA, INC.,

Sybil Ruth Kisken

Defendant/Counter Claimant.

COURTROOM MINUTES/MINUTE ORDER

HEARING: MOTION HEARING

Court in session: 10:54 a.m.

Court calls case. Appearances of counsel.

Discussion and arguments regarding Sanford Lee Hertz's Motion for Permission to Amend Complaint, doc #[314], filed 7/5/2006

The court sites relevant case law.

For the reasons as stated on the record, it is:

ORDERED: Sanford Lee Hertz's Motion for Permission to Amend Complaint, doc #[314], is **GRANTED**. In granting this motion to amend, the court is not, in any way, expressing any opinions or attempting to anticipate, in any way, rulings that Judge Babcock may make on the merits of the objections raised by Luzenac. The court is granting the Motion to Amended **WITHOUT PREJUDICE** to Luzenac's right to raise any substantive defenses that they believe are appropriate under Rule 12, including but not limited to, challenges to the issue of timeliness. To the extent that Mr. Hertz wishes to file a Second Amended Complaint, he will be required to file a Second Amended Complaint no later than **JANUARY 29, 2010**.

ORDERED: Luzenac's Unopposed Motion for Three-Day Extension of Time for Rule 26(e) Fact Supplementation, doc #[378], filed 1/19/2010 is **GRANTED**. Luzenac's 26(e) fact supplementation shall be provided to Hertz by **JANUARY 22, 2010**.

Discussion regarding Hertz's Motion for Leave to Substitute Expert Witness, doc #[376], filed 1/14/2010.

ORDERED: Defendants shall file a Response to Hertz's Motion for Leave to Substitute Expert Witness, doc #[376]. Plaintiff may file a Reply brief. The briefs must be filed by 12:00 p.m. on **FEBRUARY 15, 2010**. The fully briefed motion will be considered at the Status Conference set for **FEBRUARY 18, 2010 at 10:30 a.m.**

The parties will agree on how to divide the abbreviated time for filing the Response and the Reply briefs by the February 15, 2010 deadline.

HEARING CONCLUDED.

Court in recess: 11:57 a.m.
Total time in court: 01:03

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