

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

Civil Action: 13-cv-00665-RPM-CBS  
Date: March 11, 2014

FTR - Reporter Deck - Courtroom A402  
Courtroom Deputy: Courtni Covington

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Parties:

Counsel:

EDLUND ELECTRIC INC.,  
  
Plaintiff,

Matthew D. Barrett (*appearing by phone*)  
Robert R. Marsh

v.

TOWER I CONSTRUCTION COMPANY,  
*et al.*,

James W. Bain

Defendants.

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**COURTROOM MINUTES/MINUTE ORDER**

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**HEARING: MOTION HEARING**

**Court in Session: 1:33 p.m.**

Court calls case. Appearances of counsel. Representatives of Defendants, Joe Ekstrom and Mark McKibbin, are also present.

Discussion and argument held between the court and counsel regarding **Plaintiff Edlund Electric's Motion for Sanctions Pursuant to F.R.C.P. 37(b)** [Doc. No. 50].

**1:55 p.m.** Court is in recess.

**1:59 p.m.** Court is in session.

Discussion held regarding Defendants' failure to comply with the court's order regarding discovery, Joe Ekstrom's deposition, and Defendants' submission of a deductive change order.

The court makes findings. For the reasons stated on the record, it is

**ORDERED:** *Plaintiff Edlund Electric's Motion for Sanctions Pursuant to F.R.C.P. 37(b)* [Doc. No. 50, filed 2/12/2014] is **GRANTED**. The court is ordering that Mr. Ekstrom's deposition shall be reopened for no more than forty-five minutes, the scope shall be limited to the particular deductive change order (Doc. No.

52-1) and the documentation or the “breakdown” as discussed on the record today, and shall be completed **within two weeks of today’s date**. To the extent that there are any additional documents relative to the \$7,500 change order, they must be produced to Plaintiff’s counsel **forty-eight hours** before the reopened deposition.

The deposition shall be reopened at the Defendants’ expense and the court will require they pay the court reporter’s cost, the cost for a transcript of the deposition, and one hour of Plaintiff’s counsel’s time at his normal hourly rate.

**ORDERED:** The court will permit Plaintiff to submit a bill of costs for the filing of the *Motion for Sanctions* [Doc. No. 50] **within two weeks of today’s date**.

Discussion between the court and Plaintiff’s counsel regarding the bill of costs and if the date for the Final Pretrial Conference should be reset.

The court informs the parties that only a ruling from the bench will issue, no written order will follow, and therefore the amount of days to file an objection should be calculated from today's date.

The court moves next to **Third Motion to Withdraw Forthwith as Counsel of Record for Defendants Tower I Construction Company and Western Surety Company** [Doc. No. 53] and notes it will take up the matter *in camera*.

**2:24 p.m.** Plaintiff’s counsel are excused from the courtroom.

Discussion held regarding Mr. Bain’s *Third Motion to Withdraw* [Doc. No. 53].

**2:57 p.m.** Off the record.

**3:11 p.m.** On the record. Plaintiff’s counsel, Robert R. Marsh, reenters the courtroom.

The court addresses counsel regarding the setting of a Settlement Conference.

**ORDERED:** A Settlement Conference is set for **March 21, 2014 at 1:30 p.m.** Counsel and a client representative of each party shall be physically present.

**No later than noon on March 19, 2014**, each side is to submit a confidential settlement statement explaining the settlement negotiation history that has occurred in this case and advising what each party is prepared to offer or accept in settlement.

**ORDERED:** The Final Pretrial Conference is **RESET** to **April 15, 2014 at 9:15 a.m.** Final Pretrial Order is due **no later than SEVEN (7) CALENDAR DAYS before the Final Pretrial Conference**. (See the court’s website for Instructions for Preparation and Submission)

Counsel for Plaintiff clarifies Mr. Bain remains as counsel of record for the Defendants.

HEARING CONCLUDED.

**Court in recess: 3:18 p.m.**

Total time in court: 01:41

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