

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 14-cv-01600-MEH

LET'S GO AERO, INC., a Colorado corporation,

Plaintiff,

v.

CEQUENT PERFORMANCE PRODUCTS, INC., a Delaware corporation, f/k/a Cequent
Towing Products, Inc.,

Defendant.

MINUTE ORDER

Entered by Michael E. Hegarty, United States Magistrate Judge, on September 16, 2014.

Defendant Cequent's Motion to Stay Discovery and Pretrial Scheduling [filed September 2, 2014; docket #25] is **denied without prejudice** as premature.

On September 3, 2014, this Court granted Cequent's unopposed motion for extension of time to answer or otherwise respond to the operative pleading. Docket #26. The Court specified that the extension applied to an answer pursuant to Fed. R. Civ. P. 7 or a motion pursuant to Fed. R. Civ. P. 12. *Id.* However, the Court has become aware that Cequent may still believe a "motion to compel arbitration" is a proper response to the operative Second Amended Complaint. In fact, Cequent has expressed its intent to file a "forthcoming" motion to compel; however, no such motion has been filed.

The Court notes that a "motion to compel arbitration" itself is not recognized under Fed. R. Civ. P. 7 or 12 as a proper response to a complaint. Accordingly, the Court clarifies that its order granting the extension of time applies solely to an answer or other response governed by Rules 7 and 12.

Accordingly, the Court finds that Cequent's motion to stay, based on a "forthcoming" motion to compel, is premature. The Court will not grant a motion to stay based on mere speculation. Thus, if Cequent files a motion to compel arbitration in this case, the Court will then entertain a motion to stay.

Meanwhile, the Scheduling Conference is **rescheduled to October 16, 2014, at 10:00 a.m.** in Courtroom A-501, on the fifth floor of the Alfred A. Arraj United States Courthouse located at 901 19th Street, Denver, Colorado. If this date is not convenient, counsel should confer with opposing counsel and contact my Chambers to obtain an alternate date. Absent exceptional

circumstances, no request for rescheduling will be entertained unless made five business days prior to the date of the conference.

Lawyers whose offices are located outside of the Denver metropolitan area may appear at scheduling conferences by telephone. Please contact Chambers at (303) 844-4507 at least five business days prior to the scheduling conference to arrange appearance by telephone. Lawyers appearing by telephone must ensure that the proposed Scheduling Order is filed electronically and by email no later than five business days prior to the scheduling conference, in accordance with the instructions in this minute order.

It is further ORDERED that counsel for the parties in this case are to hold a pre-scheduling conference meeting and jointly prepare a proposed Scheduling Order in accordance with Fed. R. Civ. P. 26(f) **on or before October 2, 2014**. Pursuant to Fed. R. Civ. P. 26(d), no discovery shall be submitted until after the pre-scheduling conference meeting, unless otherwise ordered or directed by the Court.

The parties shall file the proposed Scheduling Order with the Clerk's Office, and in accordance with District of Colorado Electronic Case Filing ("ECF") Procedures V.L., **no later than five (5) business days prior to the scheduling conference**. The proposed Scheduling Order is also to be submitted in a useable format (i.e., Word or WordPerfect only) by email to Magistrate Judge Hegarty at Hegarty_Chambers@cod.uscourts.gov.

Parties not participating in ECF shall file their proposed Scheduling Order on paper with the clerk's office. However, if any party in this case is participating in ECF, it is the responsibility of that party to file the proposed scheduling order pursuant to the District of Colorado ECF Procedures.

The parties shall prepare the proposed Scheduling Order in accordance with the form which may be downloaded from the Standardized Order Forms section of the Court's website, found at <http://www.cod.uscourts.gov/CourtOperations/RulesProcedures/Forms.aspx>. (Copy and paste this address in your browser). All Scheduling Conferences held before a Magistrate Judge utilize the same scheduling order format, regardless of the District Judge assigned to the case.

Any out-of-state counsel shall comply with D.C. Colo. LAttyR 3 prior to the Scheduling Conference.

The parties are further advised that they shall not assume that the Court will grant the relief requested in any motion. Failure to appear at a Court-ordered conference or to comply with a Court-ordered deadline which has not been vacated by Court order may result in the imposition of sanctions.

Finally, the parties or counsel attending the Conference should be prepared to informally discuss the case to determine whether an early neutral evaluation is appropriate. There is no requirement to submit confidential position statements/letters to the Court at the Scheduling Conference or to have parties present who have full authority to negotiate all terms and demands

presented by the case.

Anyone seeking entry into the Alfred A. Arraj United States Courthouse will be required to show valid photo identification. *See* D.C. Colo. LCivR 83.2(b).