

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Judge Philip A. Brimmer

Civil Action No. 15-cv-02250-PAB-MJW

AMES CONSTRUCTION, INC., a Minnesota corporation,

Plaintiff,

v.

FLSMIDTH USA, INC., a Delaware corporation,

Defendant.

ORDER

This matter is before the Court on the Joint Motion Requesting Administrative Closure [Docket No. 12] filed by plaintiff Ames Construction, Inc. and defendant FLSmidth USA, Inc.¹ The parties represent that this case is “peripheral and subordinate” to plaintiff’s core dispute related to the construction of a gold mill near Victor, Colorado. Docket No. 12 at 1, ¶¶ 1-2.

Plaintiff states that it believes that damages are owed to it by the owner of the mill, Newmont CC&V Mining Corporation (“CC&V”), but CC&V has taken the position that, under the relevant contracts, plaintiff must pursue its claims for damages against other entities, including defendant. *Id.* at 1-2, ¶ 2. On November 12, 2015, plaintiff informed the Court of the following related cases:

- *Brahma Group, Inc. v. Ames Constr., Inc.*, No. 15-cv-01538-WYD-KLM

¹Although defendant’s counsel has not filed an entry of appearance in this action, the instant motion is signed by counsel representing defendant. See Docket No. 12 at 4.

(Filed July 21, 2015);

- *Ames Constr., Inc. v. Cripple Creek & Victor Gold Mining Co.*, Case No. 2015CV30116 (Teller Cty., Colo. Dist. Ct. Filed Oct. 13, 2015);
- *Cripple Creek & Victor Gold Mining Co., et al. v. Ames Construction, Inc.*, Case No. 01-15-0005-1207 (Am. Arbitration Assoc., Filed Sept. 25, 2015); and
- two arbitrations filed with the American Arbitration Association by CC&V against defendant on September 25, 2015 (for which plaintiff does not provide case numbers).

See Docket No. 11 at 2-3.

Plaintiff states that it initiated this action “in order to preserve its rights pending resolution of underlying claims and issues that will be adjudicated in its arbitration with CC&V.” Docket No. 12 at 2, ¶ 3. Additionally, the parties inform the Court that they have entered into a tolling agreement that tolls all applicable limitations periods until at least January 1, 2016 so that they can attempt to negotiate a settlement. *Id.* ¶ 4. The parties state that good cause exists for administrative closure because they intend to resolve their claims in the instant litigation through mediation and related cases. *Id.* at 3, ¶ 7.

The Court, having considered the parties’ position, finds that administrative closure is appropriate. As the parties have identified an earlier-filed, related case in this district, once this case is reopened the parties may wish to consider whether this case should be reassigned pursuant to D.C.COLO.LCivR 40.1(c)(4).

Wherefore, it is

ORDERED that plaintiff Ames Construction, Inc. and defendant FLSmidth USA, Inc.’s Joint Motion requesting Administrative Closure [Docket No. 12] is **GRANTED**. It

is further

ORDERED that, pursuant to D.C.COLO.LCivR 41.2, this matter is administratively closed. It is further

ORDERED that the parties shall submit a status report on or before February 1, 2016. Such report shall inform the Court of the status of related cases and the status of the parties' settlement negotiations.

DATED November 16, 2015.

BY THE COURT:

s/Philip A. Brimmer
PHILIP A. BRIMMER
United States District Judge