

EXHIBIT C

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
WESTERN DIVISION

LT-00072
received
8/29/05

3	MIDWEST ENGINEERING)	Docket No. 05 C 50023
4	SERVICES, INC., et al.,)	
5)	Rockford, Illinois
6	Plaintiffs,)	Friday, August 19, 2005
7)	2:30 o'clock p.m.
8	v.)	
9)	
10	INTERNATIONAL UNION OF)	
11	OPERATING ENGINEERS)	
12	LOCAL 150 AFL-CIO, et al.,)	
13)	
14	Defendants.)	

ENTERED
8/29/05

TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE P. MICHAEL MAHONEY

11 APPEARANCES:

12	For the Plaintiffs:	SMETANA & AVAKIAN
13		(39 S. LaSalle Street,
14		Suite 1218,
15		Chicago, IL 60603) by
16		MR. GERARD C. SMETANA

15		MC GREEVY, JOHNSON & WILLIAMS
16		(6735 Vistagreen Way,
17		Rockford, IL 61107) by
18		MR. CHRISTOPHER J. COCOMA

18	For the Defendants:	LOCAL 150 LEGAL DEPARTMENT
19		(6140 Joliet Road,
20		Countryside, IL 60525) by
21		MR. DALE D. PIERSON
22		MR. CHARLES R. KISER

21	Court Reporter:	Mary T. Lindbloom
22		211 South Court Street
23		Rockford, Illinois 61101
24		(815) 987-4486

23
24
25

1 discovery, okay? Why at this point shouldn't I bring you back
2 next time and just enter a CMO?

3 MR. PIERSON: I think we should, Judge, because then
4 one of the problems that we've had is in deposing certain of
5 the principals --

6 THE COURT: They want to limit it?

7 MR. PIERSON: Right.

8 THE COURT: Right.

9 MR. PIERSON: We're not getting to damage information.

10 THE COURT: All right. I got it. I got it.

11 MR. PIERSON: Okay.

12 THE COURT: Isn't that right? I mean, it's taking you
13 all so long to get up there for a preliminary injunction
14 hearing, it seems to me that this is just not an efficient way
15 to run this lawsuit at this point, and what I should do is next
16 time in bring you in for a CMO and get this thing ready for a
17 full scale trial.

18 MR. SMETANA: Your Honor, with regard to the
19 preliminary injunction issues, as I indicated at the outset and
20 have throughout, there are three essential areas for which we
21 will seek preliminary injunctive relief. One of them is the
22 one that Mr. Pierson addressed, and that is the police power
23 issues. We have really defended most of it because that has
24 been the general scope of their depositions with regard to the
25 employees that were followed. They have also utilized the time

1 in areas that go to the merits on the --

2 THE COURT: Counsel, when will you be ready for a
3 preliminary injunction hearing?

4 MR. SMETANA: I would hope that sometime after the
5 next discovery cutoff, which would be -- I've asked for 30
6 days. It may not encompass -- we may have to have more time to
7 finish up these third-party subpoenas, but I would hope --

8 THE COURT: Then you would have no objection if I were
9 to pull you back within 30 days, extend fact discovery cutoff
10 as far as the preliminary injunction is for 30 days, but also
11 set up a renewal of the initial pretrial conference to enter a
12 CMO as far as the general case is concerned?

13 MR. SMETANA: I would like to see that six weeks
14 hence, your Honor, to see where we are because I know that we
15 will be filing a motion for preliminary injunctive relief. As
16 I say, part of the depositions, at least a number of them, go
17 directly to the preliminary injunctive relief because one of
18 the areas on which we seek preliminary injunctive relief is the
19 target information. That also is a source of difference of
20 opinion between us on amendments to our initial complaint.

21 So, if it turns out we get the information we're
22 seeking, then we'll file the preliminary injunction on that
23 issue. If it turns out the preliminary injunctive -- pardon
24 me -- the discovery information we receive does not support
25 that, which I doubt very much based on the information we have,

1 then we will amend our complaint to drop that portion of the
2 case out of it. It doesn't diminish the case. It certainly
3 diminishes one area of restraint of trade.

4 And the third is the ongoing activity of Operating
5 Engineers Local 150 throughout here continuing the restraints
6 by going to third-party neutrals -- not the ones that we're
7 seeking information from, other third-party neutrals --
8 interfering with our business, the business of our plaintiffs,
9 and that will be one of the subjects of the preliminary
10 injunctive relief. We will either have that information
11 together in 30 days by way of affidavit, or we will have to
12 notice depositions of those third-parties in the event that
13 it's not fully cooperated. And I can't speak to that at this
14 point a hundred percent. That's why I say six weeks.

15 I would hope that after the cutoff of 30 days, unless
16 we need more time for the limited purpose of finishing up the
17 materials Mr. Cocoma is talking about, then I would propose
18 filing our motion for preliminary injunction, briefing that,
19 and setting a hearing for that at that time, but I would do
20 that two weeks after the cutoff, your Honor. So, that would
21 take us into the middle of October.

22 THE COURT: Which is about six months after the filing
23 of the complaint.

24 MR. SMETANA: Well, it has developed that way, but not
25 because of anything we've done. We have not been able to