UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

ANTHONY DOWDLE	CIVIL ACTION
VERSUS	NO. 13-498
MSE CONSTRUCTION, MSE BUILDING CO., INC., GARY COFER, ET AL	SECTION "C" (5)

ORDER

IT IS ORDERED that the motion for summary judgment filed by the defendant MSE Building Co., Inc. is DENIED without prejudice. Rec. Doc. 101. Assuming that MSE Building Co., Inc. is not named in the EEOC right-to-sue letter, the undisputed facts indicate that counsel for MSE Building Co., Inc. previously represented MSE Construction in this matter. Rec. Docs. 3 at 5, 7, 16. The Court notes that in granting the motion for leave to file amending and superceding answer filed by MSE Building Co., Inc., the magistrate judge stated that "the amendment appears merely to seek clarification of the name of the correct defendant." Rec. Doc. 40. Instead, the motion itself sought to "remov[e] all references to MSE Construction, as no such entity is related to MSE Building Co., Inc., in any manner," and was filed shortly after the Court ruled on a motion to dismiss filed by both and after MSE Construction filed an answer along with MSE Building Co., Inc. Rec. Docs. 15, 16, 22. Therefore, the amendment to the

answer may have been sought, at least in part, to buttress the argument that the previous joint representation was indicative of a relationship between the two. That circumstance should be addressed in any future motion for summary judgment.

The memoranda attendant to this motion do not otherwise reveal the substance of any EEOC complaint or whether, if the EEOC complaint was against MSE Construction only, whether any MSE Building Co., Inc. personnel were involved in the process. In light of the record and the fact that the plaintiff is proceeding *pro se*, summary judgment is premature.

IT IS FURTHER ORDERED that the plaintiff's second motion to recuse Magistrate Judge Joseph C. Wilkinson, Jr. is DENIED. Rec. Doc. 91. The fact that the magistrate has ruled against the plaintiff is not grounds for recusal.

New Orleans, Louisiana, this 30th day of September, 2014.

HELEN G. BERRIGAN
UNITED STATES DISTRICT COURT