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AUG 04 2010

UNITED STATES DISTRICT COURT

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WESTERN DISTRICT OF LOUISIANA

LAFAYETTE DIVISION

To: All Counsel of Record

Issued By: Honorable Rebecca F. Doherty

Re: Office & Professional Employees International Union, et al v. PHI, Inc.  
Civil Actions 06-1469 and 06-2243

Date: August 4, 2010

**MINUTES OF TELEPHONE CONFERENCE**

On August 3, 2010, this Court conducted a telephone conference for the purpose of discussing several recent submissions by the parties.<sup>1</sup> Participating in the conference were Hal J. Broussard, Scott Smith, and Brian Herman on behalf of PHI, Inc., and Timothy Gallagher, Julie Richard-Spencer, and Melvin Schwarzwald on behalf of the Office & Professional Employees International Union and Local 108 Office & Professional Employees International Union (the Unions).

After discussion with counsel, the following ORDERS were entered:

1. No later than Friday, August 6, 2010 at 12:00 p.m. Central Standard Time, the Unions must respond to the 2 questions needed to complete the ordered spreadsheet or provide to PHI and this Court good cause for its failure to comply with this order. If individual pilots or the Unions on behalf of individual pilots do not supply this information in a timely manner, the Unions are on notice that the claims of those pilots, or the claims of the Unions in a representative capacity, are at risk of being barred at trial. PHI shall also be allowed to supplement the spreadsheet with the information it received too late on Friday, July 30, 2010 to include in the spreadsheet already provided to the Court, and has until Friday, August 6, 2010 at noon to include the information on the one pilot for whom no information has yet been received.
2. PHI's Motion to Propound Requests for Admission and Interrogatories Out of Time Enabling Supplementation of Court-Ordered Spreadsheet Stipulations and to Require Expedited Responses to Such Discovery Requests [Doc. 477] and the Motion to Expedite consideration thereof [Doc. 478] are MOOT, having been withdrawn by PHI.

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<sup>1</sup>Court time 5 ½ hours, Court Reporter Cathleen Marquardt.

3. PHI's Motion to Dismiss All Claims for Penalty Wages Under La. Rev. Stat. § 23:632 and the Claims of Robert Brown, Richard Golden and John Linardos [Doc. 468] is DENIED AS PREMATURE.
4. PHI orally moved to file an out-of-time motion to dismiss the Louisiana wage claims on grounds this Court does not have jurisdiction over such claims pursuant to *Consolidated Rail Corp. v. Railway Labor Executives' Ass'n*, 491 U.S. 299, 109 S.Ct. 2477 (1989) ("*Conrail*"). The Unions opposed the motion. Noting the jurisdiction of the Court is an issue that can be raised *sua sponte* by the court at any time, this Court overruled the Unions' objection and GRANTED PHI's oral motion.
5. PHI shall file its motion addressing the jurisdiction of this Court over the Unions' Louisiana wage claims no later than Monday, August 9, 2010 at 12:00 p.m. Central Standard Time. The Unions' response brief is due no later than Monday, August 16, 2010 at 12:00 p.m. Central Standard Time. To the extent PHI finds it necessary to do so, PHI may file a reply brief no later than Wednesday, August 18, 2010 at the close of business. The briefs shall not exceed 12 pages, normal fonts and margins.
6. The Unions' outline of claims is due no later than August 18, 2010 at 4:00 p.m. Central Standard Time. PHI's outline of claims is due no later than August 20, 2010 at 4:00 p.m. Central Standard Time. The outlines shall conform to the requirements set forth by the Court at the conference. Along with their outlines, each party shall file a list of outstanding legal issues, also discussed at the conference.
7. On August 18, 2010, no later than 12:00 p.m. Central Standard Time, the parties shall file a one-page declaration stating whether that party believes an evidentiary hearing will be required on PHI's motion addressing the threshold issue of the jurisdiction of this Court over the Unions' Louisiana wage claims. Any party believing a hearing is necessary shall list the factual issues to be addressed at the hearing, along with an identification of which witnesses and evidence that party would present for each fact in dispute.
8. Should this Court find it necessary to hold an evidentiary hearing on PHI's jurisdictional motion, that hearing will be held the week of August 23, 2010.
9. The joint stipulations of the parties are due no later than August 20, 2010 at 4:00 p.m.
10. The Unions' witness and exhibit lists are due no later than August 23, 2010 at 4:00 p.m. Central Standard Time. PHI's witness and exhibit lists are due no later than August 25, 2010 at 4:00 p.m. The witness and exhibit lists shall conform to the requirements set forth by this Court at the conference.

11. Any objections to the exhibit and witness lists shall be filed no later than August 27, 2010 at 9:00 a.m. Central Standard Time.
12. PHI's motions addressing all remaining legal issues in this case shall be filed no later than September 3, 2010. The Unions' response is due no later than September 10, 2010. Should the Unions wish to file a motion addressing remaining legal issues, they shall do so by September 3, 2010; PHI's response will be due no later than September 10, 2010.
13. The parties' Joint Motion to Set Abbreviated Scheduling Order Related to Count II of Fifth Amended Counterclaim [Doc. 471] and Motion to Expedite consideration thereof [Doc. 472] were GRANTED IN PART AND DENIED IN PART as discussed at the conference and as further addressed in these Minutes.
14. Trial of this matter was RESET on November 29, 2010.

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DATE: 8/4/10  
BY: CF  
TO: RED  
CG