

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

JENSEN BAIRD GARDNER)
& HENRY,)
)
Plaintiff,)
)
v.) 2:12-cv-00296-JAW
)
JERZY WIRTH, et al.,)
)
Defendants.)

**ORDER DENYING MOTION TO BE PERMITTED TO PARTICIPATE IN
ALL UPCOMING CONFERENCES BY TELEPHONE**

On April 9, 2013, Jensen Baird Gardner & Henry (Jensen Baird), the Plaintiff, filed notice pursuant to Local Rule 56(h) that it intended to file a motion for summary judgment against Jerzy Wirth’s Counterclaim. *Pl.’s Notice of Intent to File Mot. for Summ. J. Pursuant to Local Rule 56(h)* (ECF No. 44). On the same day, the Court scheduled a pre-filing conference for May 24, 2013 in Portland Courtroom 3 at 9:30 a.m. *Procedural Order* (ECF No. 45). On April 10, 2013, Jerzy Wirth moved to be allowed to participate in all upcoming conferences by telephone. *Req. that Wirth be permitted to participate in all upcoming Conferences by telephone* (ECF No. 46). Mr. Wirth notes that he lives in Wilmington, Delaware, approximately 440 miles from Bangor, Maine and that he recently traveled to Portland per Court order to attend a deposition.¹ *Id.* at 1. He contends that there would be “no substantive benefit” from his physical appearance at “these

¹ Although the travel from Delaware to Maine is still substantial, the Court notes that the pre-filing Conference is scheduled for Portland, not Bangor Maine.

Conferences” that cannot be achieved by his telephone participation. *Id.* He observes that the parties have met and are familiar with each other. *Id.*

The Court denies Mr. Wirth’s motion. The purpose of the Local Rule 56(h) pre-filing conference is for the Court to review with the parties the procedure by which a motion for summary judgment is filed, to discuss the common pitfalls of the current procedure, to assess briefly the merits of the proposed motion and defense, to set deadlines for the filing of the motion, the response and the reply, and to discuss the Court’s practice regarding oral argument. The Court has required the physical presence of the parties at the Local Rule 56(h) pre-filing conference to make certain that the message regarding the Court’s preferences and practices has been received. The purposes of the pre-filing conference would be compromised if a party were allowed to participate by phone.

The issue might be different if Mr. Wirth were a bystander to the proposed motion. He is not. Jensen Baird has stated that it intends to file a motion for summary judgment against Mr. Wirth’s counterclaim so the continued viability of Mr. Wirth’s claim forms the sole basis for the proposed motion. As such, Mr. Wirth’s presence is essential to the proper disposition of the proposed motion.

The Court DENIES Defendant Jerzy Wirth’s Request that Wirth be permitted to participate in all upcoming Conferences by telephone (ECF No. 46).

SO ORDERED.

/s/ John A. Woodcock, Jr.
JOHN A. WOODCOCK, JR.
CHIEF UNITED STATES DISTRICT JUDGE

Dated this 11th day of April, 2013