

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

MORRISON ENTERPRISES, LLC, and)
CITY OF HASTINGS, Nebraska,)
)
Plaintiffs,)
)
v.)
)
DRAVO CORPORATION,)
)
Defendant.)
_____)

4:08CV3142

MEMORANDUM AND ORDER ON
“DEFENDANT DRAVO
CORPORATION’S REQUEST FOR THE
COURT TO TAKE JUDICIAL NOTICE OF
THE UNITED STATES’ AMICUS CURIAE
MEMORANDUM FILED IN ITT
INDUSTRIES, INC. V. BORGWARNER,
INC. IN SUPPORT OF ITS MOTION FOR
SUMMARY JUDGMENT RELATED TO
PLAINTIFF’S WELL D CLAIMS”

On September 15, 2009, Dravo Corporation (Dravo) filed a “Request for the Court to Take Judicial Notice of the United States’ Amicus Curiae Memorandum Filed in ITT Industries, Inc. v. Borgwarner, Inc. in Support of its Motion for Summary Judgment Related to Plaintiffs’ Well D Claims.” (Filing 304.) In response, Morrison Enterprises, LLC (Morrison) states that it does not dispute the legal position put forward in the United States’ amicus brief; it argues, however, that Dravo’s request should be denied because the facts of ITT Industries are distinguishable from those of the instant case. (See filing 327 at 2.)

I shall consider the amicus brief cited by Dravo as I analyze its motion for summary judgment on the plaintiff’s claims related to the Well D System. (See filing 154.) To that extent,

IT IS ORDERED that Dravo’s request for the court to take judicial notice of the United States’ amicus curiae memorandum in ITT Industries, Inc. v. Borgwarner, Inc., filing 304, is granted.

Dated November 9, 2009.

BY THE COURT

s/ Warren K. Urbom
United States Senior District Judge