

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

MORRISON ENTERPRISES, LLC, and)	
CITY OF HASTINGS, Nebraska,)	
)	
Plaintiffs,)	4:08CV3142
)	
v.)	
)	
DRAVO CORPORATION,)	
)	
Defendant.)	
_____)	

MEMORANDUM AND ORDER ON DEFENDANT DRAVO CORPORATION’S MOTION
FOR LEAVE TO SUBMIT ADDITIONAL AUTHORITY IN SUPPORT OF ITS MOTION
FOR SUMMARY JUDGMENT RELATED TO PLAINTIFF’S WELL D CLAIMS

On November 9, 2009, Defendant Dravo Corporation (Dravo) filed a “Motion for Leave to Submit Additional Authority in Support of Its Motion for Summary Judgment Related to Plaintiffs’ Well D Claims.” (Filing 374.) Dravo seeks leave to submit for my consideration a copy of an unpublished decision from the Eastern District of Pennsylvania dated December 22, 1997. (See id., see also Allen-Bradley Co., Inc. v. Northwestern Mutual Life Insurance Co., No. Civ.A. 96-CV-4698, 1997 WL 825286 (E.D. Pa. Dec. 22, 1997).) The defendants oppose the motion. (See filings 377, 382.)

I shall deny Dravo’s motion. The case Dravo seeks to submit for my consideration was available to Dravo at the time of the filing of its motion for summary judgment, and Dravo has been excessively tardy in bringing it to my attention. The relevant case is not a binding precedent, nor is it a particularly weighty authority. Moreover, I have determined that Dravo’s motion for summary judgment on the plaintiffs’ Well D claims should be granted, which renders the instant motion moot.

IT IS ORDERED that Dravo's motion for leave to submit additional authority, filing 374, is denied.

Dated November 24, 2009.

BY THE COURT

s/ Warren K. Urbom
United States Senior District Judge