

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

DES MOINES, IOWA, AREA LOCAL)
AMERICAN POSTAL WORKERS UNION,))
ALF-CIO,)

Plaintiff,)

8:06CV239

v.)

MAIL CONTRACTORS OF AMERICA,)
INC.,)

ORDER

Defendant.)
_____)

This matter is before the Court on the defendant Mail Contractors of America, Inc.'s motion for reconsideration (Filing No. 32) and motion to stay (Filing No. 44), and on plaintiff's motion to amend plaintiff's opposition to defendant's motion for reconsideration (Filing No. 46). In its motion, the defendant essentially claims that since the Court found that defendant did not clearly refuse to arbitrate, a factual issue is presented as to when the six-month statute of limitations should commence. The defendant suggests that this is a factual issue on which it should be permitted to submit evidence.

Upon review, the Court finds that defendant should be given this opportunity. The Court will stay its order of September 14, 2006 (Filing No. 31), and permit the parties to submit such evidence as they believe are relevant to the resolution of this issue. Plaintiff will be permitted to amend

its opposition to defendant's motion for reconsideration.

Accordingly,

IT IS ORDERED:

1) Plaintiff's motion to amend its opposition to defendant's motion for reconsideration is granted; the timeliness issue concerning defendant's motion will not be considered.

2) Defendant's motion to stay is granted; the Court's order of September 14, 2006, is stayed pending further order of the Court;

3) On or before November 8, 2006, defendant shall submit evidence in the form of affidavits or exhibits with respect to the following issues:

(a) what was a reasonable period of time for plaintiff to appeal the third step decision and request arbitration;

(b) whether or not plaintiff abandoned Gary Vedder's grievance; and

(c) whether or not the grievance procedure "otherwise broke down."

4) Plaintiff shall have twenty days after service defendant's submission to submit any evidence it wishes addressing these three issues.

DATED this 18th day of October, 2006.

BY THE COURT:

/s/ Lyle E. Strom

LYLE E. STROM, Senior Judge
United States District Court