

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

Civil Action No.: 5:08-CV-00460-FL

_____)
DUKE ENERGY PROGRESS, INC.)
)
Plaintiff,)
)
v.)
)
3M COMPANY, et al.,)
)
Defendants.)
_____)

Civil Action No.: 5:08-CV-00463-FL

_____)
CONSOLIDATION COAL COMPANY,)
)
Plaintiff,)
)
v.)
)
3M COMPANY, et al.,)
)
Defendants.)
_____)

**ORDER GRANTING DEFENSE LIAISON COUNSEL’S MOTION FOR PAYMENT OF
OUTSTANDING JOINT DEFENSE COSTS**

These consolidated actions come before the Court on the motion of Keith H. Johnson, co-administrative liaison counsel for a large group of defendants and third-party defendants, to compel five members of his defense liaison group to make payments that are past due to a defense fund that he manages in his capacity as defense liaison counsel. Mr. Johnson seeks an Order requiring the payments be made by a date to be set by the Court, and that he and is co-liaison counsel Tricia Shields be relieved of any liaison duties to toward any delinquent party that fails to meet that deadline.

Mr. Johnson make his motion pursuant to the Order entered by the Court appointing liaison counsel. In that Order, in relevant part, the Court provided:

All defendants are hereby ordered to share in the cost of the fees and expenses of their respective administrative liaison counsel. Defendants are ordered to reach an agreement regarding the reasonable allocation of such fees and expenses among themselves, and a mechanism for payment and pre-funding, with each defendant to be responsible for an appropriate share.

See Order, p. 3 (Case 460, Doc. 311, Case 463, Doc. 326). The Court further provided that if any defendant declined to pay its allocated share, any other defendant could bring the issue to the Court's attention via an appropriate motion. See Appointment Order, p. 3.

Mr. Johnson indicates via a sworn declaration that the amounts due per relevant party are as follows:

Party:	Amount:
Appalachian Power Co./Kingsport Power Co. (affiliate parties)	\$1500
General Excursions, Inc.	\$1500
Monongahela Power Co.	\$3000
West Penn Power Co.	\$3000
Magnetic Metals	\$3000

He further indicates in his declaration that the members of his liaison group agreed upon the amount and timing of each capital call made to fund group expenses, and that none of the parties owing funds has ever raised any objection to any capital call. In briefing the Court, Mr. Johnson indicates the motion to compel payments was made as a last resort, after exhausting efforts to collect these funds which all are over seven months past due.

For good cause shown, the motion is GRANTED. Each of the parties listed above are hereby ordered to pay to Mr. Johnson's firm the amounts indicated above that they owe to the relevant defense fund, for deposit in that fund, by **March 18, 2015** . If any such party fails to make the payment due by that date, Mr. Johnson and his co-liaison counsel Tricia Shields will be relieved as of that date from any duty as liaison counsel to the non-paying party. This Court reserves the right to enter additional orders or sanctions against parties that do not comply with the above-referenced payment obligations set forth in the Court's Order appointing liaison counsel.

SO ORDERED.

This the 27th day of February 2015.



LOUISE W. FLANAGAN
United States District Judge

CERTIFICATE OF SERVICE

I hereby certify that on January 23, 2015, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification of such to all counsel of record.

This the 23rd day of January, 2015.

/s/ Keith H. Johnson

Keith H. Johnson