

October 26, 2004

By Facsimile and Regular U.S. Mail

Daniel R. Haude, Esq.
Reminger & Reminger
1400 Midland Building
101 Prospect Avenue, West
Cleveland, Ohio 44115-1093

RE: Malkamaki v. Sea Ray Boats, Inc., et al.
Case No. 03 CV 0286, Northern District of Ohio

Dear Dan:

In response to your email, we will not consent to moving Nick Maltickek's deposition to next week. As you know, the deadline for motions for summary judgment is Monday, November 1st. It is patently unfair for you to have the opportunity to use our motion as an outline to conduct the deposition of a fact witness who will testify on the same subjects as that motion.

Moreover, Caterpillar produced Mr. Maltickek's service reports on July 1, 2004. You chose to wait until October 15th to schedule his deposition, and we should not be penalized for your inaction.

As I indicated Monday, I am available either Thursday or Friday of this week for Mr. Maltickek's deposition. If you schedule his deposition after the deadline for motions for summary judgment, we will bring this matter to the Court's attention.

Please do not hesitate to call if you wish to discuss this further.

Sincerely,



Nicole K. Wilson

cc: Kip T. Bollin, Esq. (via e-mail)
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