

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS**

SHERMAN DIVISION

DATE: July 24, 2008

JUDGE
MICHAEL H. SCHNEIDER

COURT REPORTER: Jan Mason
COURTROOM DEPUTY: Linda Pritchard

McAFEE, INC.

vs.

**WILMER, CUTLER, PICKERING,
HALE AND DORR, LLP**

CAUSE NO:
4:08CV160

ATTORNEYS FOR PLAINTIFF	ATTORNEYS FOR DEFENDANT
MARTIN ROSE STEVE SANFELIPPO LYNDA LEE WEAVER JOE KENDALL	R. PAUL YETTER GERSON ZWEIFACH

MINUTES OF SCHEDULING CONFERENCE

On this day, came the parties by their attorneys and the following proceedings were had:

OPEN: 1:35 P.M.

ADJOURN: 3:05 P.M.

TIME:	MINUTES:
1:35 pm	Case called. Martin Rose, Joe Kendall, Steve Sanfelippo and Lynda Weaver announced ready for the plaintiff. Paul Yetter and Gerson Zweifach announced ready for the defendant.
1:40 pm	Mr. Kendall addressed fraud claim. Mr. Rose responded.
1:48 pm	Court granted motion by Mr. Yetter to allow Mr. Zweifach to appear pro hac vice.
1:48 pm	Mr. Zweifach addressed the Court regarding the fraud claim. Mr. Rose responded.
1:56 pm	The Court addressed claims of negligence, gross negligence and breach of fiduciary duty. Mr. Sanfelippo responded. Mr. Zweifach responded. Mr. Sanfelippo responded. Mr. Zweifach responded.
2:09 pm	Court addressed indispensable party issue. Mr. Zweifach responded. Mr. Rose responded. Mr. Zweifach responded.

TIME:	MINUTES:
2:28 pm	Mr. Kendall addressed hardship to the plaintiff. Mr. Zweifach responded.
2:34 pm	Recess taken.
2:57 pm	Court reconvened.
2:58 pm	Court finds under 12(b)(1) that the matter is not ripe and in the alternative also finds that the forum selection clause applies that there is a close relationship of the type that is considered a transactional participant and the case should be dismissed for improper venue. And the alternative to that, the Court finds that the case should be dismissed under 12(b)(6) for failure to state a cause of action, fraud, theft, negligence, gross negligence and breach of fiduciary duty. Also, in the alternative, the Court finds that Goyal is an indispensable party and should be joined.
3:01 pm	The parties may submit a memorandum order to the Court.
3:02 pm	The order will be final once the Court enters a written order.
3:05 pm	Court adjourned.

DAVID J. MALAND, CLERK

BY: Linda Pritchard
Courtroom Deputy Clerk