

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN**

TILSTRA DAIRY EQUIPMENT, LTD.,

Plaintiff,

vs.

Case No. 12 CV 827

BOUMATIC, LLC,

Defendant.

**CIRCUIT RULE 3(c) DOCKETING STATEMENT
OF DEFENDANT**

Defendant, BouMatic, LLC, by its Attorneys, Axley Brynelson, LLP, submits the following docketing statement pursuant to Seventh Circuit Rule 3(c).

1. **Statement Concerning the District Court's Jurisdiction.** The District Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1332(a)(2) because Defendant is a citizen of one state, Plaintiff is a citizen of a foreign state, and the amount in controversy exceeds \$75,000, exclusive of interest and costs. Diversity jurisdiction is based on the following facts:

i. Defendant BouMatic, LLC ("BouMatic") is a limited liability company organized under the laws of the State of Nevada with its principal place of business in Madison, Wisconsin. BouMatic, LLC, has one member, Madison One Holdings, LLC.

ii. Madison One Holdings, LLC, is a limited liability company organized under the laws of the State of Nevada. Madison One Holdings, LLC, has two members.

iii. One member of Madison One Holdings, LLC, is Gaston Corp. Gaston Corp. is incorporated in the State of Nevada with its principal place of business in Texas, and is thus a citizen of the States of Texas and Nevada. The other member of Madison One Holdings, LLC, is Kotts Capital Holdings Limited Partnership.

iv. The partners of Kotts Capital Holdings Limited Partnership are John Kotts, Colleen Kotts, Kotts Capital Holdings, Inc., and the 2007 Jacqueline Kotts Trust.

v. John Kotts and Colleen Kotts are domiciled in and citizens of the State of Texas.

vi. Kotts Capital Holdings, Inc., is incorporated in the State of Texas and has a principal place of business in Texas, and thus is a citizen of Texas.

vii. The trustee of the 2007 Jacqueline Kotts Trust is William Coe. Mr. Coe is domiciled in and is a citizen of the State of Louisiana.

viii. Plaintiff is Canadian corporation and is a citizen of Canada whose principal place of business is located at 475025 Zorra-East Tavistock Line, Woodstock, Ontario, Canada 44S 7V7.

ix. Plaintiff sought damages exceeding \$75,000.00, and was awarded \$471,124.00 in damages (CAD) in the final judgment.

2. Statement Concerning Appellate Jurisdiction. The United States Court of Appeals for the Seventh Circuit has jurisdiction over this appeal pursuant to 28 U.S.C. § 1291, as this is an appeal from a final judgment.

i. This appeal is from the Judgment entered in this action on the 15th day of May, 2014, by the Federal District Court for the Western District of Wisconsin (Docket # 116).

ii. On June 5, 2014, Defendant filed post-judgment motions, including a Motion for Judgment as a Matter of Law under Fed. R. Civ. P. 50(b), a Motion to Alter or Amend Judgment pursuant to Fed. R. Civ. P. 59(e), and Motion for New Trial under Fed. R. Civ. P. 59(a) (Docket #s 130, 131 & 132). Said motions were filed within 28 days after entry of judgment.

iii. The district court denied these motions on September 19, 2014 (Docket # 145).

iv. The Notice of Appeal was filed on October 16, 2014, within the time limitation in Rule 4 of the Federal Rules of Appellate Procedure.

v. This case is a direct appeal from a decision of a magistrate judge. This case was referred to a magistrate judge, by consent of all the parties by their counsel on January 15, 2013, and then by order of the district court on February 4, 2013, wherein the parties consented to have a United States

magistrate judge conduct all proceedings in this case including trial, the entry of final judgment, and all post-trial proceedings. (Docket # 12.)

3. Additional Information: This is an appeal from a final judgment that adjudicates all of the claims and issues with respect to all parties. There have been no prior appellate proceedings in the above-captioned case. There was no prior litigation before the District Court. No parties appear in an official capacity. There are no related appeals pending. This appeal is not a collateral attack on a criminal conviction.

Dated: October 16, 2014.

AXLEY, BRYNELSON, LLP

s/ Saul C. Glazer

Saul C. Glazer (counsel of record)

Brian C. Hough

Attys. for Defendant

2 East Mifflin Street, P. O. Box 1767

Madison, WI 53701-1767

(608) 283-6772

(608) 257-5444

sglazer@axley.com

bhough@axley.com