



Issue Date: 05 July 2005

CASE NUMBERS: 2005-SDW-004
2005-SDW-005
2005-SDW-006

In the Matter of:

**GREGORY A. DANN,
LON A. FULLER, and
THOMAS J. KOSCIK,**
Complainants,

v.

**BECHTEL SAIC COMPANY, LLC, and
BECHTEL NEVADA**
Respondents.

ORDER GRANTING REQUEST FOR CONTINUANCE

In a Revised Notice of Trial issued on May 11, 2005, the trial of the above-captioned matter was scheduled to commence in Las Vegas, Nevada on July 26, 2005. By a letter dated June 19, 2005, the counsel for the Complainants suggested that the trial be postponed until a later date. On June 23, 2005, the counsel for Respondent Bechtel SAIC indicated that his client neither supported nor opposed the request. In contrast, on the same day the counsel for Bechtel Nevada filed a reply opposing any continuance. Because the Complainants' request for a continuance failed to set forth sufficiently specific reasons for a postponement, the request was denied in an Order issued on June 23, 2005.

In a formal motion filed on June 30, 2005, the Complainants again requested that the trial be postponed and provided more specific information to support the request. In particular, the Complainants submitted copies of two letters that the Complainants' counsel had sent to the attorneys for the respective Respondents on June 28, 2005 concerning asserted deficiencies in the discovery responses that the Respondents had provided to her on June 14, 2005. According to the counsel for the Complainants, these alleged deficiencies caused her to unilaterally decide not to file the Pre-Trial Statements that the Complainants had been directed to file by June 24, 2005.

The two letters the Complainants' counsel sent to the attorneys for the Respondents and the reply submitted by Bechtel Nevada indicate that although Respondent Bechtel SAIC did make a good faith effort to comply with most of the Complainants' discovery requests, Bechtel Nevada's initial and supplemental responses to the Complainants' discovery requests are so evasive and tendentious that the continuance requested by the Complainants should be granted. Accordingly, the trial that had been scheduled to commence in Las Vegas, Nevada, on July 26, 2005 is hereby postponed until 1:00 p.m. on Tuesday, September 20, 2005. The parties will be informed of the exact location of the trial in a subsequent notice. New deadlines concerning supplemental discovery responses, motions to compel complete responses to discovery requests, answers to such motions, replies to Bechtel Nevada's motion for summary decision, and Pre-Trial Statements are set forth in the attached Second Revised Pre-Trial Order.

Although this Order grants the continuance requested by the Complainants, it is noted that the counsel for the Complainants should have acted more promptly in requesting more complete answers to her discovery requests and that, in any event, she should not have unilaterally decided not to file the Complainants' Pre-Trial Statements by the deadline specified for such statements. In the future, any such willful refusals to comply with the Pre-Trial Order will result in the imposition of sanctions. Likewise, Bechtel Nevada is directed to be more forthcoming and less argumentative in its responses to the Complainants' discovery requests.

A

Paul A. Mapes
Administrative Law Judge

SECOND REVISED PRE-TRIAL ORDER

1. Bechtel SAIC and Bechtel Nevada shall deliver more complete responses to the Complainants' discovery requests by hand or air express to the counsel for the Complainants no later than July 15, 2005.

2. If the Complainants regard the foregoing discovery responses to be insufficient, any motion to compel more complete responses must be filed no later than July 22, 2005. Responses to any such motion must be filed no later than July 29, 2005.

3. The Complainants must file a response to Bechtel Nevada's motion for summary judgment no later than July 22, 2005.

4. No later than August 8, 2005 each Complainant shall either air express or hand deliver to the undersigned and to each Respondent, a pre-trial statement containing:

a. A statement setting forth the Complainant's principal contentions of law and fact, including:

(1) A list setting forth each of the Complainant's alleged protected activities, the date of each such activity, and a detailed description of the activity,

(2) A list setting forth each of the alleged adverse actions taken against the Complainant in retaliation for the aforementioned protected activities, the date of each such action, and a statement explaining why the action should be considered to be retaliatory, and

(3) A list setting forth each type of relief sought by the Complainant and a statement explaining exactly how any demand for money damages has been calculated;

b. A detailed summary of the expected testimony of each witness, including each witnesses' name, address and telephone number;

c. A complete list of all exhibits to be offered into evidence, which list shall also include a detailed statement specifically explaining what each such exhibit will prove;

d. Copies of all proposed exhibits.

5. No later than August 22, 2005, each Respondent shall air express or hand deliver to the undersigned and to each Complainant, a pre-trial statement containing:

a. A statement setting forth the Respondent's principal contentions of law and fact, including:

(1) A statement either admitting or denying the occurrence of each protected activity alleged in the Complainant's pre-trial statement,

(2) A statement either admitting or denying the occurrence of each adverse action alleged in the Complainant's pre-trial statement,

(3) A statement either admitting or denying knowledge of each alleged protected activity prior to the occurrence of each alleged adverse action,

(4) A statement either admitting or denying a retaliatory motive for each alleged adverse action,

(5) A detailed statement specifically describing the Respondent's actual motivation for each adverse action asserted to be unrelated to any protected activities,

(6) A statement specifically setting forth any and all objections to each type of relief sought by each Complainant, and

(7) A statement specifically setting forth the factual and legal basis for any affirmative defenses;

b. A detailed summary of the expected testimony of each witness, including each witnesses' name, address and telephone number;

c. A complete list of all exhibits to be offered into evidence, which list shall also include a detailed statement specifically explaining what each such exhibit will prove;

d. Copies of all proposed exhibits.

6. No later than September 7, 2005, each Complainant or his counsel shall contact the counsel for each Respondent for the purpose of discussing a possible settlement.

7. So far as practicable, exhibits shall be on eight and one-half by eleven inch paper, bound in volumes of approximately 100 pages, and sequentially numbered in the lower right-hand corner. Each such volume shall have a cover sheet listing the exhibits in that volume.

8. Except for good cause, no party will be permitted to litigate issues, raise defenses, call witnesses, or introduce evidence not listed in the party's pre-trial statement.

9. Every pre-trial motion shall contain a declaration affirming that prior to submitting the motion the movant party conferred or corresponded with the opposing party in an unsuccessful