

HONORABLE RICHARD A. JONES

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

CERTAINTEED CORPORATION,

Plaintiff,

v.

SEATTLE ROOF BROKERS, et al.,

Defendants.

CASE NO. C09-563RAJ

MINUTE ORDER

The following minute order is made by the direction of the court, the Honorable Richard A. Jones:

The court has received Plaintiff's application for appointment of a mediator. Dkt. # 50. The application recites that although the parties have agreed upon a mediator, Defendant James Garcia has refused to pay his portion of the mediator's fee. The mediation deadline in this matter is July 6, 2010.

The court's local rules permit it to appoint attorney neutrals from its registry to provide pro bono mediation services "when appropriate." *See* Local Rules W.D. Wash. CR 39.1(b)(2)(E). In this case, the court cannot determine if it is appropriate to appoint a neutral to serve on a pro bono basis. The correspondence between the parties attached to Certainteed's application gives no explanation of why Mr. Garcia declines to pay for a mediator's services. Dkt. # 51, Ex. 1 ("While I remain willing to mediate in good faith, I

1 am not paying for mediation and that is not subject to negotiation.”). If Mr. Garcia
2 believes that his refusal to pay is by itself a sufficient basis for the court to appoint a pro
3 bono mediator, he is mistaken. If, on the other hand, there is a legitimate basis for his
4 refusal (e.g., his inability to pay the mediator’s fee), then the court would consider a pro
5 bono appointment.

6 In addition, the court notes that there are three pending summary judgment
7 motions in this matter, along with a discovery motion. Based on Mr. Garcia’s position in
8 the summary judgment briefing and his position in the correspondence regarding
9 mediation, the court expects that the parties will be better situated to mediate this dispute
10 after they receive the court’s ruling on the pending motions.

11 The court accordingly orders as follows:

- 12 1) Mr. Garcia shall, no later than June 18, submit a statement to the court
13 explaining his reasons for declining to pay his portion of the mediator’s fee.
- 14 2) The court vacates the July 6, 2010, mediation deadline, and will set a new
15 deadline when it rules on the parties pending motions.
- 16 3) The court directs the clerk to renote the first three of the four pending motions
17 (Dkt. ## 22, 27, 28) for May 28, 2010, which is the noting date of the last
18 motion (Dkt. # 40).

19 Filed and entered this 8th day of June, 2010.

20 BRUCE RIFKIN, Clerk
21 s/Consuelo Ledesma
22 By
23 Deputy Clerk
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