


BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

KENNETH E. MEDEMA, JR. )  
 )  
Complainant, )  
 )  
v. ) PCB No. 05-220  
 ) (Enforcement Noise)  
 )  
ENT LOGISTICS )  
NORTH AMERICA, INC., )  
 )  
Respondent. )

NOTICE OF FILING

Ms. Dorothy M. Conn Clerk of the Board Illinois Pollution Control Board 100 West Randolph St. Suite 11-500 Chicago, IL 60601	Bradley F. Halloran, Esq. Hearing Officer Illinois Pollution Control Board 100 West Randolph St. Suite 11-500 Chicago, IL 60601	Edward W. Dwyer Thomas C. Saffey Heidi J. Dwyer ZEMAX 350 Roland Ave. P.O. Box 8776 Springfield, IL 62705
--	---	---

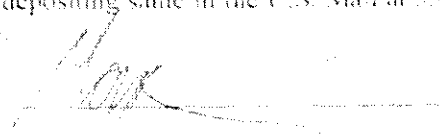
PLEASE TAKE NOTICE that on December 27, 2005, NOELAN LAW OFFICE will file with the Office of the Clerk of the Illinois Pollution Control Board the attached **Reply to Response to Motion for Leave to Amend Complaint Instanter**, copies of which are attached hereto and hereby served upon you.

  
Attorney for Complainant

Timothy M. Nolan, Mary A. Sullivan  
NOELAN LAW OFFICE  
Attorneys for Defendants  
53 West Jackson Blvd., Suite 1137  
Chicago, IL 60604-3702  
(312) 322-1100, Fax (312) 322-1100

PROOF OF SERVICE

The undersigned attorney certifies that this notice is served by mailing a copy to each person to whom it is directed, by placing a copy of said document in an envelope properly addressed to each person above with postage prepaid and depositing same in the U.S. Mail at 53 W. Jackson Blvd., Chicago, Illinois on December 27, 2005.



*Section 103.206 Adding Parties*

- a) The Board, on its own motion or the motion of a respondent, may order a person to be added as a respondent if the complete determination of a controversy cannot be had without the presence of the person who is not already a party to the proceeding.
- b) If the Board orders a person to be added as a respondent pursuant to subsection (a) of this Section, the Board will grant the complainant leave to file an amended complaint that sets forth a claim against the added respondent. The amended complaint must meet the requirements of Section 103.204 of this Subpart.
- c) All order and nonorder of parties with respect to enforcement proceedings are governed by 35 Ill. Admin. Code 103.403(e).
- d) If a party wishes to file a counter-complaint, cross-complaint, or third-party complaint, the party must move the Board for leave to file the pleading. If a party wishes to file an amendment to a complaint, counter-complaint, cross-complaint, or third-party complaint that sets forth a new or modified claim *against another person*, the party who wishes to file the pleading must move the Board for leave to file the pleading.
- e) The pleading sought to be filed pursuant to subsection (d) of this Section must:
  - 1) Set forth a claim that arises out of the occurrence or occurrences that are the subject of the proceeding; and
  - 2) Meet the requirements of Section 103.204 of this Subpart.

35 Ill. Admin. Code 103.206 (emphasis added).

Again, as Complainant does not seek leave to add another person or party, Section 103.206 in its entirety does not apply, including the requirements of Section 103.204 as set forth in subparagraph e).

Accordingly, Complainant restates and realleges the allegations set forth in his Formal Complaint and seeks leave amend said Complaint to incorporate in Paragraph 5

and shall have no effect on the defendant's liability under 35 U.S.C. 101 (b). A defendant is not liable for any scheme or art devised just in the premises.

Furthermore, as Complainant's Motion is not dispositive and does not seek to add claims under 35 U.S.C. 101 (b) (2) and 35 U.S.C. 101 (b) (3), this Motion is properly denied to the Hearing Officer.

WHEREFORE, Complainant, KENNETH E. MEDEMA, JR. prays for entry of an Order granting leave to amend his Complaint *in whole or in the alternative to set a time and date for hearing on this Motion.*

Respectfully submitted,

NOLAN LAW OFFICE



Attorney for Complainant  
**KENNETH E. MEDEMA, JR.**

Timothy M. Nolan  
Mary Ann Sullivan  
NOLAN LAW OFFICE  
Attorneys for Defendants  
53 West Jackson Blvd., Suite 1137  
Chicago, IL 60604-3702  
(312) 322-1100; Fax (312) 322-1106