



Court of Claims of Ohio

The Ohio Judicial Center
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Columbus, OH 43215
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TRANSAMERICA BUILDING
COMPANY, INC.

Plaintiff/Counter Defendant

v.

OHIO SCHOOL FACILITIES
COMMISSION, etc.

Defendant/Counter
Plaintiff/Third-Party
Plaintiff/Counter Defendant

v.

LEND LEASE (US) CONSTRUCTION,
INC.

Third-Party Defendant/Counter
Plaintiff/Fourth-Party Plaintiff

and

STEED HAMMOND PAUL INC., etc.

Third-Party
Defendant/Fourth-Party Plaintiff

v.

BERARDI PARTNERS, INC., et al.

Fourth-Party Defendants

Case No. 2013-00349

Judge Patrick M. McGrath
Referee Samuel Wampler

ENTRY

FILED
COURT OF CLAIMS
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2015 APR 17 PM 1:34

On April 7, 2015, defendant/counter plaintiff/third-party plaintiff/counter defendant, Ohio School Facilities Commission (OSFC), filed Objections to Referee's Granting

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of TransAmerica's Motion to Sever. On April 8, 2015, plaintiff/counter defendant, TransAmerica Building Company, Inc. (TA), filed a response.

OSFC's objections relate to an order (as opposed to a decision) of the magistrate. Specifically, the March 24, 2015 order to separate the trial of OSFC's claims from the trial of TA's complaint and OFSC's counterclaim. Pursuant to Civ.R. 53(D)(2)(a)(i), a magistrate "may enter orders without judicial approval if necessary to regulate the proceedings and if not dispositive of a claim or defense of a party." The order in question was for the purpose of regulating the proceedings and did not dispose of any claim or defense of a party. As such, and considering a decision has yet to be rendered, the court interprets OSFC's objections as a motion to set aside the magistrate's order, pursuant to Civ.R. 53(D)(2)(b).

Civ.R. 53(D)(2)(b) states in pertinent part:

"Any party may file a motion with the court to set aside a magistrate's order. The motion shall state the moving party's reasons with particularity and shall be filed not later than ten days after the magistrate's order is filed."

OSFC's motion was filed fourteen (14) days after the magistrate's order was filed. It is therefore not timely.

Even so, upon review of the file, it is the court's finding that the referee was correct in his analysis of the issues and application of the law. Accordingly, the motion to set aside is DENIED.



PATRICK M. MCGRATH
Judge

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