



Legal Document

United States Court of Federal Claims
Case No. 1:05-cv-00515-FMA
COMCATION, INC. v. USA

Document 27



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In the United States Court of Federal Claims

No. 05-515T

(Filed: August 29, 2006)

COMCATION, INC.,

Plaintiff,

v.

THE UNITED STATES,

Defendant.

ORDER

A pretrial conference was held in this case on August 28, 2006. Participating in the conference were Anthony Gulotta, on behalf of plaintiff, and Jacob E. Christensen, on behalf of defendant. Pursuant to the discussion, the court orders the following:

1. Trial will commence at 10:00 a.m. (EST) on Monday, September 11, 2006, at the United States Court of Federal Claims, National Courts Building, 717 Madison Place, N.W., Washington, D.C. 20005. The courtroom location will be posted in the lobby on the day of trial. Each subsequent day of trial will begin at 9:00 a.m. (EST).
2. The issue to be resolved in this case is whether plaintiff's Dial Access service is subject to taxation under 26 U.S.C. § 4251.
3. On or before September 1, 2006, defendant shall file a supplemental witness list setting forth the topic of and expected length of the testimony of Mitchell Smith should defendant decide to call him.
4. On or before September 6, 2006, the parties shall file a joint stipulation of undisputed facts.

5. Regarding the handling of exhibits:
 - a. At the outset of trial, it is the court's intent to admit *en masse* any exhibits to which there are no objections. At the outset of trial, the court will rule on any objections to exhibits that do not require live testimony. Objections to exhibits that require live testimony will be considered at the appropriate time. The parties shall consult and, to the extent possible, avoid introducing duplicate exhibits.
 - b. On or before September 1, 2006, plaintiff shall file a revised exhibit list that omits any documents already in the record and that individually lists the documents previously provided to defendant as initial disclosures.
6. At the beginning of trial, the parties shall supply six pre-marked copies of the exhibits they intend to offer in this case including joint exhibits. The copies shall be in binders, with tabbed dividers between each individual exhibit. Colored exhibit stickers shall be affixed only to the original copy of the exhibits (which will be provided to the reporter). Defendant shall use blue stickers; plaintiff shall use any color other than blue. The parties shall ensure that the pagination of individual exhibits is easily identifiable.
7. Each party shall notify the other as soon as possible if a determination is made not to call someone on its witness list.
8. The court may require post-trial briefing in this case.
9. Counsel are reminded of the court's expectation that they will attempt to resolve as many matters as possible through cooperation.

IT IS SO ORDERED.

s/ Francis M. Allegra

Francis M. Allegra

Judge

