

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 7
901 NORTH FIFTH STREET
KANSAS CITY, KANSAS 66101

BEFORE THE ADMINISTRATOR

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In the Matter of)

) Docket No. RCRA-07-2009-0012

Spirit AeroSystems, Inc)
3810 S. Oliver)
Wichita, Kansas 67210)

) JOINT MOTION FOR
) APPOINTMENT OF A NEUTRAL
) TO INITIATE THE ALTERNATIVE
) DISPUTE RESOLUTION PROCESS

Respondent)
_____)

JOINT MOTION FOR APPOINTMENT OF A NEUTRAL
TO INITIATE THE ALTERNATIVE DISPUTE RESOLUTION PROCESS

Pursuant to Rules 22.16 and 22.18(d) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits, Complainant, the United States Environmental Protection Agency, Region VII (EPA) and Respondent, Spirit AeroSystems, Inc., seek the appointment of a neutral to initiate the Alternative Dispute Resolution process in the above referenced matter.

EPA and Respondent have not had the opportunity to participate in the Alternative Dispute Resolution process and feel that Alternative Dispute Resolution would be productive in pursuing settlement of this matter. EPA and Respondent request that this Motion for Appointment of a Neutral to Initiate the Alternative Dispute Resolution Process be granted.

A brief history of the case follows:

On September 29, 2009, EPA filed a Complaint, Compliance Order, and Notice of Opportunity for Hearing, RCRA-07-2009-0012, pursuant to Sections 3008(a) and (g) of the

Resource Conservation and Recovery Act of 1980, as amended ("RCRA"), 42 U.S.C. §§ 6928(a) and (g). On October 30, 2009, Respondent filed an Answer and Request for Hearing, in accordance with the requirements of 40 C.F.R. § 22.15 of the Consolidated Rules of Practice.

On November 12 and 13, 2009, EPA and Respondent opted into the Alternative Dispute Resolution Process by electronic mail. On November 13, 2009, Judge Susan L. Biro signed an Order Initiating the Alternative Dispute Resolution Process and Appointing Neutral, designating Judge Spencer T. Nissen to initiate and conduct such process.

On November 29, 2009, EPA filed a Motion for Leave to File an Amended Complaint to reflect the correct EPA inspection date, July 18-21, 2006, in lieu of the June 18-21, 2006 inspection date referenced in the Complaint filed on September 29, 2009. Respondent did not oppose this Motion.

On December 16, 2009, Judge Nissen signed an Order Terminating Alternative Dispute Resolution Process and Returning Proceeding to Chief Administrative Law Judge. Alternative Dispute Resolution has never been scheduled nor conducted between EPA and Respondent. On December 16, 2009, Judge Biro signed an Order of Designation designating herself as the Administrative Law Judge presiding in this proceeding.

On December 17, 2009, Judge Biro signed an Order Granting Motion to File an Amended Complaint. On December 23, 2009, EPA filed the Amended Complaint. On January 11, 2010, Respondent filed the Amended Answer.

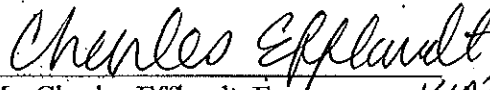
Wherefore, EPA and Respondent request that this Joint Motion for Appointment of a Neutral to Initiate the Alternative Dispute Resolution Process be granted. This motion is submitted in good faith, and will not cause prejudice to either party.

Respectfully Submitted,



Ms. Kristen Nazar
Assistant Regional Counsel
U.S. Environmental Protection Agency
Region VII
901 N. 5th Street
Kansas City, Kansas 66101
(913) 551-7450

ATTORNEY FOR COMPLAINANT




Mr. Charles Efflandt, Esq. *1240*
Foulston Siefkin LLP
Commerce Bank Center
1551 N. Waterfront Parkway
Wichita, Kansas 67206
(316) 291-9551

ATTORNEY FOR RESPONDENT
SPIRIT AEROSYSTEMS, INC.

CERTIFICATE OF SERVICE

I certify that the forgoing Joint Motion for Appointment of a Neutral to Initiate the Alternative Dispute Resolution Process, dated January 13, 2010, was sent this day in the following manner to the addressees listed below.


Signature of Sender

JAN 13 2010

Original and One Copy Sent by Pouch Mail to:

Sybil Anderson
Headquarters Hearing Clerk
U.S. EPA
Office of Administrative Law Judges
Mail Code 1900L
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Copy by Federal Express To:

Mr. Charles Efflandt, Esq.
Foulston Siefkin LLP
Commerce Bank Center
1551 N. Waterfront Parkway
Wichita, Kansas 67206

and to

Mr. Frederick Dodds
Spirit AeroSystems, Inc.
P.O. Box 780008 MC K11-60
Wichita, Kansas 67278-0008