

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF IOWA
CENTRAL DIVISION

MAYTAG CORPORATION, et al.,)	
)	
Plaintiffs,)	
v.)	Civil Action No.
)	4:08-cv-00291-JEG-RAW
)	
)	UAW and UAW LOCAL 997'S
INTERNATIONAL UNION, UNITED)	RESPONSE TO COURT'S ORDER
AUTOMOBILE, AEROSPACE, AND)	DATED JULY 13, 2010
AGRICULTURAL IMPLEMENT WORKERS OF)	
AMERICA, et al.,)	
)	
Defendants.)	
_____)	

Defendants UAW and Local 997 (the "Union") respectfully respond to the Court's Order dated July 13, 2010, as follows:

1. On July 13, 2010, the Court issued an Order stating: "The parties are directed to advise the Court by 7/23/2010 whether there is any reason why the Court should not proceed on the pending motion for summary judgment."

2. On July 6, 2010, pursuant to Fed. R. Civ. P. 23(f) and Fed. R. App. P. 5, the Union filed a Petition for Permission to Appeal with the United States Court of Appeals for the Eighth Circuit, seeking permission to appeal this Court's June 22, 2010 Order containing its class certification opinion and its Certification Order. On July 16, 2010, Plaintiffs Maytag Corporation and Whirlpool Corporation (the "Company") filed an opposition to the Union's petition. The matter is currently pending.

3. If the Eighth Circuit were to grant the Union's petition and its appeal, and it reversed this Court's class certification order, it is possible that this Court would ultimately dismiss this declaratory judgment case per its statement in its Order of June 24, 2009, denying the Union's motion for reconsideration: "If no class were certified in this action, and analysis would change, as not all of the Newton Retirees would then be parties to this suit. In such a case, the Court would entertain a motion to reconsider this portion of its analysis, as the declaratory judgment would then be piecemeal litigation directed only at some of the affected parties." *Maytag v. UAW*, No. 4:08-cv-00291-JEG (S.D. Iowa June 24, 2009).

4. Accordingly, in the interests of judicial economy and avoiding unnecessary expenditure of resources by the Court and the parties, the Union respectfully requests that the Court not proceed on the pending motion for summary judgment at least until the Eighth Circuit rules on the Union's Petition for Permission to Appeal. In the event that the Eighth Circuit denies the petition, the Union would have no objection to the Court proceeding on the pending motion for summary judgment. However, in the event that the Eighth Circuit grants the petition, the Union may request a stay of proceedings pursuant to Rule 23(f) of the Federal Rules of Civil Procedure, a motion that would be premature until permission to appeal is actually granted.

5. The Company would not incur any prejudice by the Court not proceeding immediately on the pending motion for summary judgment since the Company has already implemented the changes to the retirees' health insurance benefits that are the subject of this declaratory judgment case.

Respectfully submitted,

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***Attorneys for Defendants International
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Agricultural Implement Workers of America
and United Automobile Workers Local 997***

CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that on July 23, 2010, he caused the foregoing document to be filed electronically with the Court. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. Parties may access this filing through the Court's electronic filing system.

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/s/ Robert A. Seltzer

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