

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

**R.J. Zayed, in his Capacity as Court-
Appointed Receiver for
Trevor G. Cook, et al.,**

Civil No. 11-CV-1042 (SRN/FLN)

Petitioner,

**ORDER AND AMENDED
NOTICE OF HEARING**

v.

**David Buysse, Steven and Pamela Cheney,
Walter Defiel, John Dzik, Terry Frahm,
Steven and Jenene Fredell, William Harris,
Michael and Jennifer Heise,
Michael and Cynthia Hillesheim,
Larry Hopfenspirger, Steven Kautzman,
James McIntosh, George and Karen Morrisset,
Reynold Sundstrom, and Dot Anderson,**

Respondents.

R.J. Zayed, Tara C. Norgard, Russell J. Rigby, Brian W. Hayes & Peter M. Kohlhepp, Carlson, Caspers, Vandenburg & Lindquist, 225 S. Sixth Street, Minneapolis, Minnesota, 55402, for Petitioner

William F. Mohrman, Gregory M. Erickson & James R. Magnuson, Mohrman & Kaardal, P.A., 33 South Sixth Street, Suite 4100, Minneapolis, Minnesota 55402, for Lender Respondents

Adam S. Huhta, Huhta Law Firm, PLLC, 36 South Ninth Street, Suite 200, Minneapolis, Minnesota 55402, for Respondent Anderson

SUSAN RICHARD NELSON, United States District Court Judge

Petitioner/Receiver R. J. Zayed seeks permission to exceed the word count limit set forth in Minnesota District Court Local Rule 7.1 in connection with its summary judgment briefing in this case. (Letter of 11/23/11 from T. Norgard to Judge Nelson [Doc. No. 182].) Specifically,

the Receiver requests 36,000 words and asks that Respondents be collectively afforded the same word count in response. The Receiver contends that the facts and issues for summary judgment are more voluminous than in the average case and that it must respond to the facts raised by each of the many Respondents. Also, the Receiver requests an increased word count in order to provide the parties with relatively equal briefing, as Respondents propose filing multiple 12,000-word briefs. (Id. at 2.)

All Respondents oppose the Receiver's request, arguing that it was the Receiver who instituted this litigation in a single proceeding and it must abide by the Local Rules applicable to each party. (See Letter of 11/30/11 from W. Mohrman to Judge Nelson at 2 [Doc. No. 184]; Letter of 11/30/11 from A. Huhta to Judge Nelson at 2 [Doc. No. 183].)

In addition to the Receiver's request to exceed the word limit, the Buysse Respondents contend that under Local Rule 7.1, they would be entitled to a total of up to 144,000 words for all of their respective summary judgment motions. However, if the Court prefers that the Buysse Respondents file a consolidated memorandum, they request a total of 60,000 words. (Letter of 11/30/11 from W. Mohrman to Judge Nelson at 2 [Doc. No. 184].)

Local Rule 7.1(d) provides parties with a limit of 12,000 words in filing legal memoranda. Requests to exceed this limit are made to the Court. L.R. 7.1.

The Court recognizes that briefing in this case is significantly affected by the number of respondents and facts specific to them. In addition, under the 12,000 word limit of the Local Rules, there is a potential disparity in word limits between the Receiver and Respondents. The Court therefore grants the Receiver's request to exceed the word limit in its summary judgment briefing to 36,000 words.

The Buysse Respondents' proposed individual briefing, which their counsel estimates might reach a total of 144,000 words, is not manageable for a number of reasons. For simple reasons of judicial efficiency, separate memoranda would impose an immense burden, particularly as counsel represents that the legal issues in the case are the same as to all of the Buysse Respondents. (Letter of 11/30/11 from W. Mohrman to Judge Nelson at 2 [Doc. No. 184]) (stating, "[w]hile the 'law' will be the same, the application of the facts to that law will be different and detailed as to each [Buysse] Respondent regarding damage claims exceeding \$5,000,000 in total). Moreover, the difference between Receiver's word limit and the Buysse Respondents' proposed individual briefing limit would be unfairly imbalanced. The Court will therefore require the Buysse Respondents to file a consolidated memorandum.

Turning then to the Buysse Respondents' request to exceed the word limit for a total of 60,000 words in consolidated briefing, the Court is generally hesitant to grant requests to exceed the 12,000 word limit of Local Rule 7.1. The standard limit of 12,000 words translates into approximately 45-50 pages of typewritten briefing. The Court routinely presides over complex litigation in which the parties adhere to the 12,000 word limit under the rules. Given this context, the Buysse Respondents' request for a 60,000 word limit in consolidated briefing is extraordinary. Under the Court's rough calculation, it would approximate 225-250 pages of briefing. However, as the Court permits the Receiver a total of 36,000 words, the Court extends the same limit to the Buysse Respondents, whose consolidated briefing will adhere to a limit of 36,000 words. Respondent Anderson may file a separate memorandum, with the standard 12,000 word limit. While the Court permits an expansion to the word limit for the Receiver and the Buysse Respondents, the Court expects all parties to do their best to submit briefing that

comes under the expanded word limit of 36,000 words. The parties' briefing schedule will follow the schedule set forth under Local Rule 7.1(b).

In light of this ruling and the timing of briefing under the current schedule, the Court reschedules the hearing on the parties' summary judgment motions to **February 1, 2012 at 1:30 p.m.** in Courtroom 7B of the United States Courthouse in St. Paul.

Dated: Dec. 1, 2011

s/Susan Richard Nelson
SUSAN RICHARD NELSON
United States District Court Judge