

FILED

United States Court of Appeals
Tenth Circuit

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

March 1, 2021

Christopher M. Wolpert
Clerk of Court

In re: BO ZOU,

Petitioner.

No. 21-5002
(D.C. No. 4:19-CV-00554-JFH-JFJ)
(N.D. Okla.)

ORDER

Before **TYMKOVICH**, Chief Judge, **PHILLIPS** and **CARSON**, Circuit Judges.

Bo Zou, proceeding pro se, requests a writ of prohibition requiring United States Magistrate Judge Jodi F. Jayne to disqualify herself from Zou's pending civil action in the United States District Court for the Northern District of Oklahoma. A writ of prohibition is an appropriate vehicle to challenge a judge's refusal to disqualify herself. *See Nichols v. Alley*, 71 F.3d 347, 350 (10th Cir. 1995) (per curiam) ("[M]andamus is an appropriate vehicle by which to challenge a district court's denial of a recusal motion."); *Sangre de Cristo Cnty. Mental Health Serv., Inc. v. United States (In re Vargas)*, 723 F.2d 1461, 1468 (10th Cir. 1983) (equating writs of probation and writs of mandamus). However, the petitioner "must demonstrate a clear abuse of discretion, or conduct by the district court amounting to a usurpation of judicial authority." *Nichols*, 71 F.3d at 350. Prohibition, like mandamus, "is available only upon a showing of a clear and indisputable right to relief." *Id.*

Zou argues that the magistrate judge's rulings against him on numerous discovery-related disputes demonstrate bias. Zou ignores the magistrate judge's rulings in his favor, but regardless, "judicial rulings alone almost never constitute a valid basis for a bias or partiality motion," *Liteky v. United States*, 510 U.S. 540, 555 (1994). Zou also misunderstands many of the magistrate judge's typical case-management procedures as evidence of bias, which they are not.

Zou has not demonstrated his entitlement to prohibition relief. We therefore deny his petition. We grant his motion to proceed *in forma pauperis*.

Entered for the Court



CHRISTOPHER M. WOLPERT, Clerk

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

BO ZOU,)	
)	
Plaintiff,)	
)	Case No. 19-CV-554-JED-JFJ
v.)	
)	
LINDE ENGINEERING NORTH)	
AMERICA, INC.,)	
)	
Defendant.)	

ORDER

Before the Court are several pending motions filed by pro se Plaintiff Bo Zou and Defendant Linde Engineering North America, Inc. The motions primarily relate to a discovery order entered by the Court on May 19, 2020 (“Discovery Order”). ECF No. 37.

I. Plaintiff’s Motions

A. Motion for Sanctions Related to Plaintiff’s Email to ICC (ECF No. 34) (referred by ECF No. 43)

Plaintiff requests sanctions against Defendant for obtaining and filing an email Plaintiff sent to third party ICC, because the email is protected by copyright law. This email was discussed by the Court in the Discovery Order and relates to discovery in this lawsuit. *See* ECF No. 37 at 10-11. The Court finds no legal violations or otherwise sanctionable conduct by Defendant in obtaining the email from ICC or filing it for the Court’s consideration. The motion for sanctions is denied.

B. Motion to Reconsider (ECF No. 38) (referred by ECF No. 43)

The Court granted Plaintiff’s motion to compel in several respects and ordered Defendant to supplement its document production. Plaintiff now moves the Court to reconsider the unfavorable aspects of the Court’s ruling. Plaintiff repeats arguments raised in the motion to

compel and continues to allege Defendant has engaged in discovery misconduct and misled the Court. ECF No. 38. Plaintiff has not shown that the Court misapprehended the facts, Plaintiff's legal position, or the law governing the parties' discovery disputes. Therefore, the Court denies the motion to reconsider. *See Servant of Paraclete v. Does*, 204 F.3d 1005, 1012 (10th Cir. 2000) (explaining that a motion for reconsideration is appropriate where the court has misapprehended the facts, a party's position, or the controlling law).¹

C. Motions for Hearing and Translator (ECF No. 45) (referred by ECF No. 46)

Plaintiff requests an in-person, five-hour hearing on his motion to reconsider.² In its discretion, the Court declines to conduct a hearing on the motion to reconsider or permit any further presentation of evidence related to the Court's Discovery Order. Due to the Court's denial of a hearing, Plaintiff's request for a translator at the hearing is denied as moot.

D. Motion to Strike and for Sanctions (ECF No. 59) (referred by ECF No. 61)

Plaintiff moves to strike Defendant's response to the motion to reconsider (ECF No. 49), because Defendant failed to serve the response on Plaintiff. Plaintiff admits that he received notice of the response no later than June 19, 2020, four days after it was filed. Plaintiff filed a timely reply that the Court has considered. ECF No. 65. Defendant's response brief sets forth specific facts and arguments relied on by the Court in denying Plaintiff's motion to reconsider, and the

¹ To the extent Plaintiff seeks reconsideration based on the Court's failure to await his reply brief in support of his motion to compel, the Court has now fully considered such brief. *See ECF No. 38-1*. Upon consideration of the reply, the Court reaches the same result and finds no grounds for reconsideration.

² Plaintiff also requested a hearing on his motion to reassign the undersigned judicial officer. ECF No. 41. That motion to reassign, and the corresponding request for hearing, are pending before the district judge.

Court finds no grounds for striking the document or sanctioning Defendant for any failure to serve Plaintiff with this document. The motion to strike and for sanctions is denied.³

II. Defendant's Motions

A. Motion for Entry of Protective Order (ECF No. 44) (automatic referral by Northern District G.O. 05-09)

The Court expressly contemplated entry of a blanket protective order permitting Defendant to designate certain documents as confidential. *See, e.g.*, ECF No. 37 at 6 (compelling production but stating documents may be produced pursuant to protective order). The Court finds that a blanket protective order will facilitate discovery and the flow of information at this stage of the proceedings. To the extent Plaintiff desires to challenge whether a confidentiality designation is proper, Defendant's proposed protective order permits such a challenge. *See* ECF No. 44-1 at ¶ 7. Accordingly, the motion for entry of a protective order is granted, and the Court will enter a protective order in the form attached as Exhibit 1 to Defendant's motion.

B. Motion for Extension of Time to Comply with Order (ECF No. 50) (referred by ECF No. 55)

Defendant requests an extension of the supplemental production deadline set by the Court in its Discovery Order. Defendant requests additional time to complete ESI searches and requests that the Court postpone the deadline until entry of a protective order. There is no scheduling order in place, and Plaintiff has not shown any prejudice resulting from the extension. Defendant has shown good cause for the requested extension. Defendant shall have five days from the date of entry of the protective order to complete its production.

³ The Court finds no need to permit a response or reply brief before denying this motion.

III. Conclusion

Plaintiff's motions addressed in this Order (ECF Nos. 34, 38, 45, 59) are DENIED.

Defendant's motion for protective order (ECF No. 44) is GRANTED, and the Court enters Defendant's proposed protective order this date. Defendant's motion for extension of time (ECF No. 50) is GRANTED, and Defendant shall have five days from the date of entry of the protective order to complete its production.

The remaining motions pending before the undersigned (ECF Nos. 51, 54, 60) are not ripe for review and will be ruled on by separate Order. In the Joint Status Report to be filed July 24, 2020, the parties shall state whether the remaining discovery disputes pending before the undersigned have been narrowed or resolved in any manner.

SO ORDERED this 9th day of July, 2020.



Jodi F. Jayne
JODI F. JAYNE, MAGISTRATE JUDGE
UNITED STATES DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

BO ZOU,)
Plaintiff,)
v.)
LINDE ENGINEERING NORTH)
AMERICA, INC.,)
Defendant.)

Case No. 19-CV-554-JFH-JFJ

OPINION AND ORDER

Before the Court are numerous pending discovery motions and/or motions referred to the undersigned for disposition. (ECF Nos. 18, 40, 42, 51, 54, 60, 80, 86, 89, 94).¹

I. Defendant's Request for Special Discovery Management Order (ECF No. 80, Part VIII.F, referred by ECF No. 92)

In the Status Report filed July 24, 2020, Defendant requests that both parties be limited to four fact witness depositions and that Plaintiff be required to seek leave of Court before serving any additional written discovery requests on Defendant. ECF No. 80 at 8-9.² Upon referral of this issue, the Court gave Plaintiff the opportunity to respond. ECF No. 103. Plaintiff objects to any limits on the number of depositions, arguing that all ten proposed deponents have relevant information and that ten depositions is proportional to the needs of the case. Plaintiff also argues that Defendant should not be permitted to change its original position, which was that each party could conduct a range of six to ten fact-witness depositions. *See* ECF No. 16 at 5.

¹ Plaintiff's Motion for Contempt (ECF No. 89) has not been expressly referred but relates to Defendant's alleged discovery failures. The Court rules on this motion pursuant to General Order 05-09, which refers all discovery matters in civil cases to the assigned magistrate judge.

² The Court addresses Defendant's request to prohibit or limit further written discovery in the context of the Motion for Protective Order addressed *infra* Part VII.

Federal Rule of Civil Procedure 26(b)(2)(A) provides that “[b]y order, the court may alter the limits in these rules on the number of depositions and interrogatories or on the length of depositions under Rule 30. By order or local rule, the court may also limit the number of requests under Rule 36.” Rule 26(b)(2)(C)(i) and (iii) provide that the Court must limit discovery if it determines that the proposed discovery is “unreasonably burdensome or duplicative” or “outside the scope permitted by Rule 26(b)(1),” *i.e.*, not relevant or proportional to the needs of the case. Proportionality requires consideration of “the importance of the issues at stake in the action, the amount in controversy, the parties’ relative access to relevant information, the parties’ resources, the importance of the discovery in resolving the issues; and whether the burden or expense of the proposed discovery outweighs its likely benefit.” Fed. R. Civ. P. 26(b)(1).

This is an employment discrimination case that will turn on whether Plaintiff was subject to discriminatory treatment during a reduction in force. The Court is familiar with Plaintiff’s theory of the case, Defendant’s defenses, and the damages at issue, based on: (1) the Court’s review of written discovery requests by both parties, (2) Plaintiff’s proposed deponents and Plaintiff’s description of their proposed testimony, and (3) the two Joint Status Reports setting forth detailed factual summaries. After consideration of the likely benefit of ten fact witness depositions, compared to the burden and expense of permitting that number of depositions, the Court finds Plaintiff’s requested number to be excessive and finds Defendant’s proposed limit to be reasonable and proportional.

Contrary to Plaintiff’s arguments, Defendant permissibly changed its position regarding the number of depositions that should be allowed between the time of filing the original Joint Status Report on January 8, 2020, and the second Status Report, on July 24, 2020. The district judge first assigned to the action did not set a schedule or rule on any issues presented in the original Joint Status Report. When the case was reassigned to a new district judge, he ordered a

new report for the purpose of setting a schedule. The reassigned district judge was well within his discretion to order a new status report and refer any discovery management issues presented therein. In turn, Defendant was entitled to propose new discovery limits and deadlines, based on developments in the case during this time.

Defendant's Request for Special Discovery Management Order (ECF No. 80, Part VIII.F) is GRANTED. Exercising its discretion under the above rules, the Court initially limits both parties to four fact witness depositions. The parties may seek relief from this deposition limit, but only after conducting the number of authorized depositions and upon a showing of good cause.

II. Defendant's Motion to Quash and for Protective Order (ECF Nos. 51, 54)

These motions seek a protective order pursuant to Federal Rule of Civil Procedure 26(c), for the purpose of preventing the ten depositions noticed by Plaintiff for the week of June 23, 2020. The Court granted Defendant's motion to stay the depositions pending the Court's ruling on this Motion to Quash and for Protective Order. *See* ECF No. 58.

The Court has now placed limits on the number of fact-witness depositions pursuant to Rule 26(b)(2)(A), as requested by Defendant. Plaintiff shall inform Defendant of his four requested deponents no later than one week from the date of this Order, and the parties shall confer regarding these depositions. With the limits imposed, the parties may be able to resolve further disputes, and the Court denies the current motion without prejudice to refiling. The Court finds inadequate justification to conduct these depositions at the courthouse, as requested by Defendant, and will permit any depositions to proceed at the office building selected by Plaintiff.

Defendant's Motion to Quash and for Protective Order (ECF No. 51, 54) is DENIED as moot, without prejudice to refiling.

III. Plaintiff's Motion to Compel and for Sanctions (ECF No. 60)

This motion relates to Plaintiff's third set of requests for production and second set of Interrogatories, which were served on April 6, 2020. Plaintiff moves to compel Request for Production ("RFP") 1, 2, 3, & 5 and Interrogatory ("ROG") 20.

RFP 1, 2, 5 – Denied. The Court granted Plaintiff's motion to compel ESI, including emails relevant to the case, by identifying two custodians and ordering Defendant to search certain terms. The Court outlined the scope of proportional ESI discovery, and this is an attempt by Plaintiff to circumvent that ruling with additional requests. Further, with respect to RFP 2, Defendant already produced responsive documents and has re-run its search to determine if further responsive documents exist.

RFP 3, ROG 20 – Denied. Plaintiff now has the entire employment history for Sharp and Duncan. Defendant has explained that the word "tenured" did not refer to any specific promotion, but instead referred to these two employees being senior to Plaintiff at the time of the reduction in force. Defendant need not produce further documents or provide further explanation.

Plaintiff's Motion for Sanctions is premised on Defendant's delay in producing a signed verification, which has now been produced.

Plaintiff's Motion to Compel and for Sanctions (ECF No. 60) is DENIED.

IV. Plaintiff's Motion to Compel and for Sanctions (ECF No. 86) and Plaintiff's Motion for Contempt (ECF No. 89)

This motion relates to Plaintiff's fourth set of requests for production, which were served on May 11, 2020. Plaintiff moves to compel RFP 5 and 6.

RFP 5 – Denied. This request for communications between Defendant and ICC has already been denied by the Court, and the Court maintains its prior ruling.

RFP 6 – Denied. Defendant is not withholding responsive documents and represented that it will produce any responsive documents in its possession, custody, or control.

Plaintiff’s requests for sanctions and contempt are based on Defendant’s alleged perjury in discovery responses, falsifying documents, failing to meet deadlines, and failing to produce documents ordered by the Court. The Court has reviewed the correspondence between the parties, including emails from Plaintiff requesting additional documents or discovery, and responding emails from Defendant. Following is an example of a response from Defendant:

On RFP’s 2, 3, 4, and 7, you cannot agree to narrow the request for production and then attempt to have Defendant “follow Plaintiff’s requirements” as set forth in the original RFP’s. We have complied with the Court’s order and produced all documents as ordered by the Court. On RFP 21, as I’ve said repeatedly, we do not have any additional documents responsive to this request. For the balance of your email, we have produced all email correspondence that references you, your performance, your complaint, and your termination in compliance with the Court’s order.

ECF No. 94-1.

Upon review of the correspondence submitted by both parties and Defendant’s discovery responses, the Court finds no grounds for imposing sanctions upon Defendant or holding Defendant in contempt. The Court finds no cogent or persuasive argument that Defendant has misled the Court, fabricated evidence, failed to comply with Court orders, or otherwise engaged in anything resembling sanctionable or bad-faith litigation conduct.

Plaintiff’s Motion to Compel and for Sanctions (ECF No. 86) and Plaintiff’s Motion for Contempt (ECF No. 89) are DENIED.

V. Plaintiff’s Motion for Change of Magistrate Judge (ECF No. 40)

Plaintiff’s Motion for Change of Magistrate Judge, which expressly references 28 U.S.C. § 455(a), was referred to the undersigned. Plaintiff seeks the undersigned’s disqualification based on the following: (1) displaying a “high favoritism to Defendant and antagonism to Plaintiff” in

the undersigned's ruling on discovery motions on May 19, 2020; and (2) permitting Defendant to submit an *ex parte* letter to the Court in support of its assertion of privilege. *See* ECF No. 4.

The recusal statutes require a judge to disqualify himself if "his impartiality might reasonably be questioned," or if "he has a personal bias or prejudice concerning a party." 28 U.S.C. § 455(a) & (b)(1). A judge must recuse himself when there is the appearance of bias, regardless of whether there is actual bias. *Bryce v. Episcopal Church in the Diocese of Colo.*, 289 F.3d 648, 659 (10th Cir. 2002). "The test is whether a reasonable person, knowing all the relevant facts, would harbor doubts about the judge's impartiality." *Id.* The "recusal statute should not be construed so broadly as to become presumptive or to require recusal based on unsubstantiated suggestions of personal bias or prejudice." *See Switzer v. Berry*, 198 F.3d 1255, 1258 (10th Cir. 2000). The decision to recuse is committed to the sound discretion of the district court, and the movant bears a substantial burden to demonstrate the judge is not impartial. *United States v. Burger*, 964 F.2d 1065, 1070 (10th Cir. 1992).

The undersigned has no relationship with Defendant, its lawyers, or its witnesses. Plaintiff's assertions of bias are based on the undersigned's substantive discovery rulings. The undersigned will briefly address these frivolous arguments. First, a review of the May 19, 2020, discovery Order reveals no bias in favor of Defendant or against Plaintiff. The undersigned granted Plaintiff's motion to compel in part and ordered Defendant to produce a significant amount of ESI over its objection. The undersigned found that language used by Plaintiff in a letter to a third party was threatening and inappropriate, caused the Court concern about Plaintiff's abuse of the discovery process, and warranted a limited protective order regarding third-party subpoenas. However, these rulings were based on the facts and law presented, rather than based on bias. Second, permitting *ex parte* submission of allegedly privileged documents does not show favoritism. In the motion to compel, Plaintiff successfully argued that Defendant's assertion of

work-product privilege was improper, based on information in Defendant's privilege log. The Court agreed with Plaintiff and ordered Defendant to produce the documents to Plaintiff, or submit further information *ex parte* in support of its privilege assertion. Defendant elected to produce the documents to Plaintiff rather than further pursue its privilege assertion, and Plaintiff prevailed on this issue. The undersigned's impartiality cannot reasonably be questioned based on discovery rulings or other facts.

Plaintiff's Motion for Change of Magistrate Judge (ECF No. 40) is DENIED.

VI. Plaintiff's Motions for Chinese (Mandarin) Translator (ECF Nos. 18, 42)

Upon filing his Complaint, Plaintiff requested a Chinese translator. The district judge originally assigned to the case stated in a minute order: "There are no hearings set at this time, and the plaintiff's Complaint is coherent and is filed in English. As the litigation progresses, if a translator becomes necessary for purposes of accommodating plaintiff's accent (e.g. during deposition, court hearings) or for any other reason, the Court will consider a renewed motion for appointment of a translator." ECF No. 9. In his first renewed motion, Plaintiff "requests that the Court find a Chinese (Mandarin) translator for the case hearing and trial because of plaintiff's some English accent." ECF No. 18. In his second motion, requests a translator at a hearing requested by Plaintiff in ECF No. 41. These two motions were referred to the undersigned.

The Court has not scheduled or conducted any pretrial hearings. Plaintiff's briefs demonstrate his strong command of the English language, and Plaintiff has fully and adequately represented himself on all issues. Plaintiff has suffered no prejudice based on the Court's failure to appoint a translator. To the extent Plaintiff requests a translator for purpose of the specific hearing requested in ECF No. 41, the motion is denied as moot, because the district judge did not schedule a hearing on the motion.

To the extent Plaintiff is requesting that the Court appoint a translator for trial, depositions, or hearings that may be scheduled in the future, the Court denies the motion. *Pro se* parties in civil cases are generally not entitled to a court-provided translator. *See Desulma v. Goolsby*, No. 98CIV.2078(RMB)(RLE), 1999 WL 147695, at *1 (S.D.N.Y. Mar. 16, 1999) (“In general, a pro se civil plaintiff is not entitled to an interpreter or translator.”); *Vargas-Rodriguez v. Ortiz*, No. CV 18-2628(RMB), 2019 WL 2366968, at *6 (D.N.J. June 5, 2019) (collecting cases). Plaintiff elected to file the lawsuit, Plaintiff is not indigent, and Plaintiff shall be required to locate and provide his own translator for future court proceedings at which he desires the presence of a Chinese translator.³

VII. Defendant’s Motion for Protective Order (ECF No. 94)

In this motion for protective order, which was filed August 11, 2020, Defendant seeks a protective order that (1) requires Plaintiff to seek leave of Court before filings any further pleadings or motions; (2) requires Plaintiff to seek leave of court before serving Defendant with any additional discovery requests or notices of depositions; and (3) excuses Defendant’s obligation to respond to ECF Nos. 85, 86, and 89. ECF No. 94 at 6-7. On August 12, 2020, by minute order, the Court excused Defendant’s response obligations and prohibited Plaintiff from filing further motions on a temporary basis, until the Court had the opportunity to rule on Defendant’s motion for protective order. ECF No. 95.⁴ The Court then ordered Plaintiff to respond to the motion for protective order, and Plaintiff filed a substantive response. ECF No. 104. Plaintiff argues that

³ This ruling may be revisited at the time of any scheduled hearing or trial, or upon assessing the difficulty of conducting proceedings if Plaintiff fails to provide his own translator. This ruling will not be revisited for purposes of depositions.

⁴ This minute order was not intended as a permanent filing restriction or other sanction. Instead, it was intended to pause Plaintiff’s filings while the Court resolved the motion for protective order and numerous other motions. This effort was largely unsuccessful, as Plaintiff filed six different “objections” following the Court’s minute order. ECF Nos. 100-105.

Defendant has been “abusing protective orders” and that Defendant has blatantly misled the Court on numerous occasions. *Id.* at 1.

The Court may issue a protective order to protect a party from annoyance, embarrassment, oppression, or undue burden or expense in responding to discovery. Fed. R. Civ. P. 26(c)(1); *Boughton v. Cotter Corp.*, 65 F.3d 823, 829-30 (10th Cir. 1995) (“Rule 26(c) is broader in scope than the attorney work product rule, attorney-client privilege and other evidentiary privileges because it is designed to prevent discovery from causing annoyance, embarrassment, oppression, undue burden or expense not just to protect confidential communications.”).

Defendant has adequately shown the need for protection from undue burden in relation to Plaintiff’s discovery practices. To be clear, Plaintiff has filed non-frivolous discovery motions, including his original motion to compel discovery responses. However, following the Court’s ruling on his first motion to compel, Plaintiff filed several frivolous motions to compel burdensome and repetitive discovery requests that directly contradict this Court’s orders. In total, Plaintiff has now issued eleven different sets of discovery, including five sets of requests for production. Plaintiff has also filed frivolous motions for sanctions and contempt, accusing Defendant of deceitful and sanctionable discovery conduct without justification. Plaintiff has also objected to every unfavorable ruling issued by the Court, requiring Defendant to respond to frivolous objections. This has posed an undue burden on Defendant and the Court’s docket.

Based on Plaintiff’s conduct to date, the Court finds good cause for issuance of a limited protective order pursuant to Rule 26(c)(1) to manage discovery, avoid unnecessary expense, and avoid burdensome discovery-related motion practice. The Court issues a protective order that prohibits Plaintiff from: (1) issuing any further written discovery requests to Defendant, either in the form of interrogatories or requests for production, absent leave of Court; or (2) filing further motions for contempt or sanctions in relation to any of Defendant’s written discovery responses.

Defendant is excused from filing responses to ECF Nos. 85, 86, and 89, which the Court finds to be frivolous discovery-related motions that do not require a response.

The Court lifts the prohibition on Plaintiff's ability to file motions. *See* ECF No. 95. At this time, the Court declines to impose any permanent filing restrictions as a sanction under Federal Rule of Civil Procedure 11 or to invoke the Court's inherent powers to control abusive litigation conduct. *See generally Hutchinson v. Hahn*, No. 05-CV-453-TCK PJC, 2007 WL 2572224, at *5 (N.D. Okla. Sept. 4, 2007) (explaining Rule 11 sanctions, court's inherent power to impose sanctions, and notice requirements prior to imposing sanctions). The Court declines to do so for two reasons. First, Defendant's motion was styled as one for protective order and did not expressly reference "sanctions" in the title, causing a potential notice problem. Second, the motion was automatically referred to the undersigned because it was styled as a motion for protective order. Any motion for Rule 11 sanctions, or sanctions under the Court's inherent power, are within the province of the district judge, absent an express referral. If Defendant seeks to impose sanctions against Plaintiff under Rule 11 or otherwise, it shall file a properly styled motion that clearly triggers procedural rules governing such motions.

VIII. Conclusion

It is hereby ORDERED that:

1. Defendant's request for special discovery management limitations (ECF No. 80, Part VIII.F, referred by ECF No. 92) is GRANTED. The Court imposes a discovery management limit of four (4) fact witness depositions for both parties.
2. Defendant's Motion to Quash and for Protective Order (ECF Nos. 51, 54) are DENIED without prejudice to refiling.
3. Plaintiff's Motion to Compel and for Sanctions (ECF No. 60) is DENIED.
4. Plaintiff's Motion to Compel and for Sanctions (ECF No. 86) and Plaintiff's Motion for Contempt (ECF No. 89) are DENIED.
5. Plaintiff's Motion for Change of Magistrate Judge (ECF No. 40) is DENIED.

6. Plaintiff's Motions for Chinese (Mandarin) Translator (ECF Nos. 18, 42) are DENIED.
7. Defendant's Motion for Protective Order (ECF No. 94) is GRANTED in part, and the Court enters the following protective order. Plaintiff is prohibited from:
 - (1) issuing any further written discovery requests to Defendant, absent leave of Court; and
 - (2) filing any further motions for contempt or sanctions in relation to any of Defendant's current discovery responses.⁵
8. The Court declines to impose the sanction of filing restrictions at this time, and the temporary restriction imposed by ECF No. 94 is lifted.

SO ORDERED this 21st day of September, 2020.



Jodi F. Jayne
JODI F. JAYNE, MAGISTRATE JUDGE
UNITED STATES DISTRICT COURT

⁵ The Court's prior Protective Order, which requires Plaintiff to seek leave of court to issue third-party subpoenas and avoid threatening or harassing behavior to third parties, also remains in place. See ECF No. 37 at 10.

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

BO ZOU,

Plaintiff,

v.

**LINDE ENGINEERING NORTH
AMERICA, INC.,**

Defendant.

Case No. 19-cv-00554-JFH-JFJ

ORDER

Before the Court is the Motion for Objecting to the Court Order to Refer “Plaintiff’s Motion for Change of Magistrate Judge” to Magistrate Judge Herself (“Motion”) [Dkt. No. 85] filed by Plaintiff Bo Zou (“Plaintiff”). Plaintiff filed a Motion for Change of Magistrate Judge [Dkt. No. 40] citing 28 U.S.C. § 455(a). Dkt. No. 40 at 1. The cited statute governs the recusal of “any justice, judge, or magistrate judge of the United States” 28 U.S.C. § 455(a). Additionally, the statute provides that the judge “shall disqualify *himself* in any proceeding in which his impartiality might reasonably be questioned.” *Id.* (emphasis added). The statute does not provide a means for a district judge to disqualify a magistrate judge. Therefore, this Court appropriately referred the Motion for Change of Magistrate Judge to Magistrate Judge Jayne to be considered pursuant to Section 455. Dkt. No. 83.

As an initial matter, the Motion is moot as Judge Jayne has already considered Plaintiff’s Motion for Change of Magistrate Judge. Dkt. No. 109. Furthermore, Plaintiff cites no authority for his position that the Court should reassign a different magistrate judge to his case. *See* Dkt. No. 85 at 1. Judge Jayne has determined recusal is not appropriate here, and Plaintiff is not entitled to choose the judge assigned to his case. “Litigants, either civil or criminal, have no right to choose

the judge to whom their case is assigned, unless for some reason that particular judge is disqualified from hearing the case.” *United States v. Burney*, No. 07-cr-137, 2012 WL 273922, at *3 (S.D. Ohio Jan. 31, 2012); *McCuin v. Texas Power & Light Co.* 714 F.2d 1255, 1265 (5th Cir. 1983) (“Judges do not choose their cases, and litigants to do not choose their judges.”).

Furthermore, the Court has reviewed Plaintiff’s Motion for Objecting to Magistrate Judge’s Opinion and Order, and Motion to Deny or Remove Magistrate Judge’s Injunctions [Dkt. No. 114] wherein Plaintiff argued Judge Jayne’s decision to not recuse herself was clearly erroneous and contrary to law. *See* Dkt. No. 114 at 9-11. The Court concluded Judge Jayne’s decision was not clearly erroneous or contrary to law.

IT IS THEREFORE ORDERED that Plaintiff’s Motion for Objecting to the Court Order to Refer “Plaintiff’s Motion for Change of Magistrate Judge” to Magistrate Judge Herself [Dkt. No. 85] is **DENIED**.

IT IS FURTHER ORDERED that the case remains stayed pending resolution of this Court’s ruling on Defendant’s Motion for Sanctions [Dkt. No. 112]. *See* Dkt. No. 130.

DATED this 14th day of December, 2020.


JOHN F. HEIL, III
UNITED STATES DISTRICT JUDGE

United States Code Annotated

Title 28. Judiciary and Judicial Procedure (Refs & Annos)

Part V. Procedure

Chapter 111. General Provisions (Refs & Annos)

28 U.S.C.A. § 1651

§ 1651. Writs

Currentness

(a) The Supreme Court and all courts established by Act of Congress may issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law.

(b) An alternative writ or rule nisi may be issued by a justice or judge of a court which has jurisdiction.

CREDIT(S)

(June 25, 1948, c. 646, 62 Stat. 944; May 24, 1949, c. 139, § 90, 63 Stat. 102.)

28 U.S.C.A. § 1651, 28 USCA § 1651

Current through PL 117-11 with the exception of PL 116-283. Incorporation of changes from PL 116-283 are in progress. Some statute sections may be more current, see credits for details.

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United States Code Annotated

Title 28. Judiciary and Judicial Procedure (Refs & Annos)

Part I. Organization of Courts (Refs & Annos)

Chapter 21. General Provisions Applicable to Courts and Judges

28 U.S.C.A. § 455

§ 455. Disqualification of justice, judge, or magistrate judge

Currentness

(a) Any justice, judge, or magistrate judge of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned.

(b) He shall also disqualify himself in the following circumstances:

(1) Where he has a personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the proceeding;

(2) Where in private practice he served as lawyer in the matter in controversy, or a lawyer with whom he previously practiced law served during such association as a lawyer concerning the matter, or the judge or such lawyer has been a material witness concerning it;

(3) Where he has served in governmental employment and in such capacity participated as counsel, adviser or material witness concerning the proceeding or expressed an opinion concerning the merits of the particular case in controversy;

(4) He knows that he, individually or as a fiduciary, or his spouse or minor child residing in his household, has a financial interest in the subject matter in controversy or in a party to the proceeding, or any other interest that could be substantially affected by the outcome of the proceeding;

(5) He or his spouse, or a person within the third degree of relationship to either of them, or the spouse of such a person:

(i) Is a party to the proceeding, or an officer, director, or trustee of a party;

(ii) Is acting as a lawyer in the proceeding;

(iii) Is known by the judge to have an interest that could be substantially affected by the outcome of the proceeding;

(iv) Is to the judge's knowledge likely to be a material witness in the proceeding.

(c) A judge should inform himself about his personal and fiduciary financial interests, and make a reasonable effort to inform himself about the personal financial interests of his spouse and minor children residing in his household.

(d) For the purposes of this section the following words or phrases shall have the meaning indicated:

(1) “proceeding” includes pretrial, trial, appellate review, or other stages of litigation;

(2) the degree of relationship is calculated according to the civil law system;

(3) “fiduciary” includes such relationships as executor, administrator, trustee, and guardian;

(4) “financial interest” means ownership of a legal or equitable interest, however small, or a relationship as director, adviser, or other active participant in the affairs of a party, except that:

(i) Ownership in a mutual or common investment fund that holds securities is not a “financial interest” in such securities unless the judge participates in the management of the fund;

(ii) An office in an educational, religious, charitable, fraternal, or civic organization is not a “financial interest” in securities held by the organization;

(iii) The proprietary interest of a policyholder in a mutual insurance company, of a depositor in a mutual savings association, or a similar proprietary interest, is a “financial interest” in the organization only if the outcome of the proceeding could substantially affect the value of the interest;

(iv) Ownership of government securities is a “financial interest” in the issuer only if the outcome of the proceeding could substantially affect the value of the securities.

(e) No justice, judge, or magistrate judge shall accept from the parties to the proceeding a waiver of any ground for disqualification enumerated in subsection (b). Where the ground for disqualification arises only under subsection (a), waiver may be accepted provided it is preceded by a full disclosure on the record of the basis for disqualification.

(f) Notwithstanding the preceding provisions of this section, if any justice, judge, magistrate judge, or bankruptcy judge to whom a matter has been assigned would be disqualified, after substantial judicial time has been devoted to the matter, because of the appearance or discovery, after the matter was assigned to him or her, that he or she individually or as a fiduciary, or his or her spouse or minor child residing in his or her household, has a financial interest in a party (other than an interest that could be substantially affected by the outcome), disqualification is not required if the justice, judge, magistrate judge, bankruptcy judge, spouse or minor child, as the case may be, divests himself or herself of the interest that provides the grounds for the disqualification.

CREDIT(S)

(June 25, 1948, c. 646, 62 Stat. 908; [Pub.L. 93-512](#), § 1, Dec. 5, 1974, 88 Stat. 1609; [Pub.L. 95-598](#), Title II, § 214(a), (b), Nov. 6, 1978, 92 Stat. 2661; [Pub.L. 100-702](#), Title X, § 1007, Nov. 19, 1988, 102 Stat. 4667; [Pub.L. 101-650](#), Title III, § 321, Dec. 1, 1990, 104 Stat. 5117.)

28 U.S.C.A. § 455, 28 USCA § 455

Current through PL 117-11 with the exception of PL 116-283. Incorporation of changes from PL 116-283 are in progress. Some statute sections may be more current, see credits for details.

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**UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT**

Bo Zou

Plaintiff/Petitioner,

v.

Linde Engineering North America, Inc.

Defendant/Respondent.

District Court Case No.

4:19-cv-00554-JFH-JFJ

**In re Petition for Writ of
Prohibition**

In re Petition for Writ of Prohibition

Pursuant to Fed. R. APP. P. 21, **Petitioner, BO ZOU**, respectfully petitions the Tenth Circuit to issue a writ of prohibition restraining Jodi F. Jayne, Magistrate Judge of the U.S. District Court for the Northern District of Oklahoma as a magistrate judge from Petitioner's case in any further proceedings in the matter of *Bo Zou v. Linde Engineering North America, Inc.*, Case No. 4:19-cv-00554-JFH-JFJ. This Petition follows the denial order of a timely-filed motion to appeal to District Judge John F. Heil. *See Appendix "1".*

I. Relief sought by Petitioner

An order directing Magistrate Judge Jodi F. Jayne to be prohibited from Petitioner's case in any further proceedings in the matter of *Bo Zou v. Linde Engineering North America, Inc.*, Case No. 4:19-cv-00554-JFH-JFJ.

II. Issues Presented

May Magistrate Judge Jodi F. Jayne refuse to disqualify herself and the District Judge refuse to remove her from Petitioner's case with the issues listed as follows?

1. May Magistrate Judge Jodi F. Jayne improperly discuss with Respondent and Respondent's counsels?
2. May Magistrate Judge Jodi F. Jayne **initially and actively** offer Respondent to provide an *ex parte* letter for her without any requests for *ex parte* communication by Respondent?
3. May Magistrate Judge Jodi F. Jayne **initially and actively** offer Respondent a discovery protective order only for producing emails between two custodians, in which discussion is possibly only involving in Defendant's internal response to Plaintiff's complaints? Later, how may Magistrate Judge Jodi F. Jayne issue the protective order for the discovery to help Respondent in this case without a good cause?
4. May Magistrate Judge Jodi F. Jayne knowingly, willfully and blatantly violate U.S. Statutes and Federal Rules of Civil Procedure to rule on some motions she never has any authorities to help and protect Respondent?
5. May Magistrate Judge Jodi F. Jayne willfully and blatantly violate U.S. Statutes and Federal Rules of Civil Procedure to issue temporary restraining order and preliminary injunctions?
6. How could Magistrate Judge Jodi F. Jayne display deepseated favoritism to Respondent, and antagonism to Petitioner in the lawsuit? Which include following:
 - (A). May Magistrate Judge Jodi F. Jayne blatantly violate U.S. laws to help and

protect Respondent and Respondent counsels' guilt, crime, contempt and copyright infringement?

(B). How could Magistrate Judge make up false statements against Petitioner in the case?

(C). May Magistrate Judge Jodi F. Jayne issue a minute order to force Petitioner to answer Respondent's a unilaterally special discovery management order to help Respondent's requests in (1) changing deposition for 6—10 fact witnesses to 4 fact witnesses, (2) limiting the parties to seventy-five (75) total requests for production?

III. Statement of Facts

Plaintiff/Petitioner filed Petitioner's complaints against Defendant/Respondent's discrimination against Petitioner's race and age on October 18, 2019. In discovery phase, magistrate judge has violated U.S. laws, Statutes, Code of Conduct for United States Judges, Federal Rules of Civil Procedure to discuss with Respondent and Respondent's counsels improperly, abuse her power in excess of her jurisdiction, and display deepseated favoritism to Respondent, and antagonism to Petitioner.

So, Petitioner filed *Plaintiff's Motion for Change of Magistrate Judge* (Dkt. No. 40) on June 1, 2020. But, magistrate judge refused to disqualify herself. *See Appendix "2", Pgs. 5—7.* Petitioner filed Plaintiff's appeal to the district judge on October 2, 2020. *See Dkt. No. 114, Pgs. 9—11.* Finally, the District Judge denied Petitioner's motion. *See Appendix "1".* Therefore, Petitioner must petition the Tenth Circuit for a Writ of Prohibition. The facts are listed as follows:

(a). Magistrate judge has improper discussion with Respondent and

Respondent's counsels

In discovery phase, Plaintiff requested Defendant to produce documents in Plaintiff's first and second set of requests for production of documents. However, Defendant refused to produce the documents. So, on March 9, 2020, Plaintiff filed "*Plaintiff's motion to compel production of documents and for sanctions responsive to Plaintiff's first request for documents*" (Dkt. No. 22) to the district court. In Plaintiff's reply in support of Plaintiff's motion to compel and for sanctions, Plaintiff requested the district court to compel Defendant producing Defendant's internal investigation documents "*Linde [Zou] Priv 0004, 0005 & 0006*". *See* Dkt. No. 28, Pg. 6.

PRIV 0004, 0005 & 0006 (*See* Dkt. No. 28, EXHIBIT "2") are internal investigation documents made by HR department of Defendant for Plaintiff's internal complaint prior to reduction-in-force. *PRIV 0004, 0005 & 0006* are never work product privilege, and should have been compelled by the district court. But, magistrate judge **initially and actively** offered Defendant an *ex parte* letter. Magistrate judge stated that "*Defendant's description is not sufficient to establish a 'work product' privilege. Defendant may either produce the documents, or submit the documents in camera to the Court for review, along with an explanation via ex parte letter to the Court as to why these notes and memorandum qualify for a work product privilege*". *See* Appendix "3", Pg. 7.

Further, magistrate judge ordered Defendant "to submit its *ex parte* letter, with attached documents, no later than 10 days from the date of this Order, if desired". *See* Appendix 3, Pg. 12. It demonstrates that magistrate judge improperly discussed with Defendant about *ex parte* letter for Defendant's internal investigation documents "*Linde*

[Zou] Priv0004, 0005 & 0006” because Defendant never requested *ex parte* communication via any motions.

Also, magistrate judge **initially and actively** granted Defendant a protective order for the emails only between two custodians. *See Appendix 3, Pgs. 4, 5.* These requested emails are very common emails only possibly involving in Defendant’s internal response to Plaintiff’s complaints. Later, the protective order was granted Defendant for production of documents in the case without a good cause. Defendant falsified a lot of documents under the protective order. Magistrate judge’s behaviors demonstrate magistrate judge improper discussion with Defendant for the protective order, either.

(b). Magistrate judge covered and protected Defendant and Defendant counsels’ guilt, crime, contempt and copyright infringement; and abused her power in ruling on some motions, and issuing temporary restraining order and preliminary injunctions without authorities and jurisdictions

In *Plaintiff’s Motion to Compel Production of Documents for Fourth Set of Requests for Documents, and Motion for Sanctions* (Dkt. No. 86) filed on July 31, 2020, Plaintiff provided factual evidence for the District Court that Defendant and Defendant’s counsels committed guilt and crime in perjury and falsified documents in answering Plaintiff’s **first and second** sets of **interrogatories**. *See* Dkt. No. 86.

(1). In answering Plaintiff’s **First** set of Requests of Interrogatories No. 8, Defendant stated that “Kenny Sharp and Dustin Duncan are both tenured Piping Engineers with design experience,”. *See* Dkt. 86, EXHIBIT “9”, Pg. 7 (emphasis added).

(2). In answering Plaintiff's **Second** set of interrogatories No. 20, Defendant stated that "*There is not a position titled as 'tenured' Piping Engineer. Piping Engineers Kenny Sharp and Dustin Duncan began working at Linde before than Plaintiff, making them senior in tenure and status to Plaintiff at the time of the reduction-in-force. ...*" See Dkt. No. 86, EXHIBIT "10", Pg. 4 (emphasis added).

(3). However, in answering Plaintiff's **Third** set of interrogatories No. 23, Defendant stated that "*Dustin Duncan was hired as a PDS Designer I on or about April 11, 2011. He was promoted to Piping Designer II on or about April 1, 2013. On or about January 4, 2016, he was promoted to Piping Design Engineer. Kenny Sharp was hired as a Piping Designer on or about June 23, 2014. He was promoted to Piping Design Engineer on or about August 27, 2018.*" See Dkt. No. 86, EXHIBIT "3" Pg. 4 (emphasis added). From Defendant's answers in Plaintiff's **Third** set of interrogatories, both Dustin Duncan and Kenny Sharp's job titles are piping design engineer only, **NOT** "piping engineer". Defendant committed perjury in falsifying Kenny Sharp and Dustin Duncan's job titles as "Piping Engineers".

(4). In the documents "*Linde [Zou] 001071—Linde [Zou] 001076*" provided by Defendant (Dkt. No. 86, EXHIBIT "11"), this Court can see both Dustin Duncan and Kenny Sharp's job titles are piping design engineer only, **NOT** "piping engineer".

(5). Plaintiff also provided the factual evidence for the Court to show both Dustin Duncan and Kenny Sharp's job titles are **Piping Design Engineers**. Both of them are 36 year old on October 18, 2019. The factual evidence shows only Plaintiff's job title is piping engineer. *See* Dkt. No. 146, **EXHIBIT "1"**, or Dkt. No. 1, Pgs. 24, 25.

(6). Defendant also admitted both Dustin Duncan and Kenny Sharp were piping design engineers, and they only reported to Eli McDaniel, **NOT** to the engineering manager Gerald (Jerry) Gump in answering Plaintiff's first set of requests for **admissions**. *See* Dkt. No. 30, EXHIBIT "3", Pg. 6, Admission Nos. 2, 3.

(7). Defendant denied both Dustin Duncan and Kenny Sharp were piping engineers until the end of August, 2020. *See* Dkt. No. EXHIBIT "4", Pg. 5, Admission No. 18.

(8). Defendant also admitted Plaintiff's job title is piping engineer. *See* Dkt. No. 30, EXHIBIT "3", Pg. 6, Admission No. 1.

Plaintiff is unique piping engineer at Defendant. Piping engineer is Plaintiff's job title. Defendant and Defendant's counsels falsified fake job titles for both Dustin Duncan and Kenny Sharp to try to demonstrate both Dustin Duncan and Kenny Sharp were senior in tenure and status to Plaintiff at the time of the reduction-in-force. But, Defendant and Defendant counsels' falsification failed and committed perjury. So, Defendant and Defendant's counsels are guilty of perjury and shall, except as otherwise expressly provided by law, be fined under this title or imprisoned not more than five years, or both pursuant to **18 U.S. Code § 1621 (2)** because Defendant signed under penalty of perjury under **28 U.S. Code § 1746**. *See* Dkt. No. 30, EXHIBIT "4"; Dkt. No. 60, EXHIBIT "4"; Dkt. No. 86, EXHIBIT "5", or Dkt. No. 125, EXHIBITS "2", "3".

Moreover, Defendant committed perjury in denying withholding any other documents on the basis of attorney client privilege or the work product doctrine. *See* Dkt. 38, EXHIBIT "A", Pg. 3.

Further, Defendant and Defendant's counsels committed crime in falsifying

documents.

(1). In *Linde [Zou] 001071—Linde [Zou] 001073*, Defendant falsified some contents and data, intentionally deleted Dustin Duncan's position between January 1, 2020 and June, 2020. *See* Dkt. No. 86, EXHIBIT "11".

(2). In *Linde [Zou] 001075*, Kenny Sharp's job position is **intentionally** deleted in the period between January 1, 2020 and May 6, 2020. *See* Dkt. No. 86, EXHIBIT "11".

(3). Defendant falsified the document *Linde [Zou] 000289*, *See* Dkt. 22, EXHIBIT VII (1). Plaintiff has shown magistrate judge how Defendant falsified the document. *See* Dkt. 22, Pg. 7; Dkt. 28, Pgs. 5, 6.

Defendant and Defendant's counsels must be severely punished pursuant to 8 U.S. Code §1324c, Oklahoma Statue title 21, § 1572 and Oklahoma Statue title 21, §1624.

However, magistrate judge Jodi F. Jayne **intentionally** overlooked, ignored and never considered the facts and factual evidence, which demonstrate Defendant and Defendant counsels' perjury and falsified document. Magistrate judge never mentioned or discussed Defendant and Defendant counsels' perjury and falsified document in her rulings. *See* Appendix 2, Pg. 5. Later, magistrate judge ruled on Plaintiff's motion for sanctions (Dkt. No. 86) as frivolous without any causes and a hearing to cover and protect Defendant and Defendant counsels' guilt and crime. *See* Appendix 2, Pg. 10.

On August 6, 2020, Petitioner filed *Plaintiff's motion for contempt* (Dkt. No. 89) for Defendant's violation of the Court orders and refusal to produce the documents, **RFP 2, 3, 4, 6, 7, 21, 26**, ordered **twice** by magistrate judge Jodi F. Jayne herself. *See* Appendix 3, Pgs. 3, 5, 6; Appendix 4, Pg. 3. It's in contempt of the Court for Respondent to refuse to

abide by the Court's order to produce the documents.

Pursuant to **28 U.S. Code § 636 (e)(4)**,¹ magistrate judge does NOT have any civil contempt authority unless both parties consent to magistrate judge. In this case, both parties never consent to magistrate judge. However, magistrate judge knew that she does not have any civil contempt authority; but, **willfully and blatantly** used General Order 05-09 of the District Court to supersede **28 U.S. Code § 636 (e)(4)**² to rule on *Plaintiff's motion for contempt* (Dkt. No. 89). *See* Appendix 2, Pg. 1, footnote "1". Later, magistrate judge ruled on *Plaintiff's motion for contempt* as frivolous motion without any causes to cover and protect Defendant and Defendant counsels' contempt. *See* Appendix 2, Pg. 10.

Also, magistrate judge knowingly violated **28 U.S. Code § 636 (b)(1)(A)** to issue preliminary injunctions to prohibit Plaintiff from filing any further motions for contempt.

Although Petitioner objected to magistrate judge's rulings and orders to cover and protect Respondent and Respondent counsels' guilt, crime and contempt over and over; and provided the factual evidence for the district court. *See* Dkt. Nos. 110, 111, 114, 125. But, magistrate judge continued coving and protecting Respondent and Respondent

¹ (4) Civil contempt authority in civil consent and misdemeanor cases.—

In any case in which a United States magistrate judge presides with the consent of the parties under subsection (c) of this section, and in any misdemeanor case proceeding before a magistrate judge under section 3401 of title 18, the magistrate judge may exercise the civil contempt authority of the district court. This paragraph shall not be construed to limit the authority of a magistrate judge to order sanctions under any other statute, the Federal Rules of Civil Procedure, or the Federal Rules of Criminal Procedure. (emphasis added)

² (A) a judge may designate a magistrate judge to hear and determine any pretrial matter pending before the court, except a motion for injunctive relief, for judgment on the pleadings, for summary judgment,... (emphasis added)

counsels' guilt, crime and contempt in her "Report and Recommendation". *See* Dkt. No. 136.

It demonstrates magistrate judge's deepseated favoritism to Respondent, and antagonism to Petitioner even Respondent and Respondent counsels' guilt, crime and contempt could be covered and protected.

On March 4, 2020, Petitioner filed *Plaintiff's motion for imposing sanction on Defendant's copyright infringement and providing "made up" evidence and allegation* (Dkt. No. 34) under Fed. R. Civ. P. 11 because Defendant illegally got Plaintiff's email from Plaintiff's former employer ICC Group Inc. ("ICC") to allege Plaintiff threatened the employees at ICC. Magistrate judge Jodi F. Jayne knew that she never has any authority to rule on Petitioner's motion for imposing sanction on Respondent's copyright infringement and providing "made up" evidence and allegation under Fed. R. Civ. P. 11. However, magistrate judge blatantly violated Federal Rules of Civil Procedure to rule on and deny Petitioner's motion for imposing sanction on Respondent's copyright infringement without any causes and a hearing. *See* Appendix 4, Pg. 1.

Besides prohibiting Plaintiff from filing any further motions for contempt in violation of 28 U.S. Code § 636 (b)(1)(A), magistrate judge knowingly violated Fed. R. Civ. P. 65 (b) to issue a temporary restraining order to prohibit Petitioner from filing further motions. *See* Dkt. No. 95. Furthermore, magistrate judge issued preliminary injunctions to prohibit Petitioner from following:

(i). **Prohibiting Appellant from filing any further motions for contempt or for sanctions in relation to any of Appellee's current discovery responses.**

(ii). Prohibiting Appellant from issuing any further written discovery requests to Appellee, absent leave of Court.

(iii). Limiting Appellee's deposition to four (4) fact witnesses.

See Appendix 2, Pgs. 9, 11.

Above factual evidence demonstrates magistrate judge's deepseated favoritism to Respondent, and antagonism to Petitioner, either. Also, it demonstrates magistrate judge abused her power in excess of her jurisdiction to help and protect Respondent.

(c). Magistrate judge made up some false statements against Petitioner and forced Petitioner to answer Respondent's unilaterally Special Discovery Management Order

Magistrate judge made up some false statements against Petitioner in her rulings, such as "*Although Plaintiff contends only threatening legal action, certain language could be viewed as threats to the safety of ICC and its employees.*" *See Appendix "3", Pg. 11.* However, Plaintiff never contended that Plaintiff's email to ICC is threatening legal action in Plaintiff's any motions filed to the district court. By contrast, Plaintiff objected to magistrate judge's "*made up*" false statements over and over. *See Dkt. No. 38, Pg. 7; and Dkt. No. 76, Pg. 4.*

Moreover, magistrate judge intentionally made up the other false statement that "*and (3) the two Joint Status Reports setting forth detailed factual summaries.*" *See Appendix "2", Pg. 2.* However, there is NEVER the second joint status report to exist in the lawsuit. Plaintiff objected to the District Court's order to file the second joint status report. *See Dkt. No. 72.* Also, Plaintiff timely objected to magistrate judge's "*made up*"

false statements. *See* Dkt. No. 114, Pg. 4

Furthermore, on August 10, 2020, magistrate judge issued a minute order (Dkt. No. 93) to force Petitioner to answer Respondent's a unilaterally Special Discovery Management Order in Defendant's unilateral status report (Dkt. No. 80) to help Respondent. Respondent wanted to change and alter some terms agreed by both parties in the joint status report (Dkt. No. 16), such as (1) changing deposition for 6—10 fact witnesses to 4 fact witnesses, (2) limiting the parties to seventy-five (75) total requests for production, etc.

Magistrate judge's behaviors demonstrate magistrate judge's deepseated favoritism to Respondent, and antagonism to Petitioner, again.

All the forgoing facts support Petitioner's assertions on magistrate judge's improper discussion with Respondent and Respondent's counsels, abusive power and Magistrate judge's deepseated favoritism to Respondent, and antagonism to Petitioner.

IV. Statement of Reasoning for the Issuance of a Writ

Wrts of Prohibition arrest the proceeding of any "tribunal, corporation, board or person exercising judicial functions, when such proceedings are without or in excess of the jurisdiction of such tribunal, corporation, board or person. Such wrt may be issued when no plain, speedy and adequate remedy exists in the ordinary course of law.

Title 28 U.S.C. § 455(a) provides that a judge "shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned." The goal of this provision is to avoid even the appearance of partiality. *See Liljeberg v. Health Servs. Acquisition Corp.*, 486 U.S. 847, 860 (1988). Pursuant to § 455, a court is not required to

accept the factual allegations as true “and the test is whether a reasonable person, knowing all the relevant facts, would harbor doubts about the judge’s impartiality.” *Glass*, 849 F.2d at 1268 (internal quotation marks omitted). The standard is objective and the inquiry is limited to outward manifestations and reasonable inferences drawn therefrom. *See United States v. Cooley*, 1 F.3d 985, 993 (10th Cir. 1993).

Petitioner has clearly established **genuine** question concerning magistrate judge's impartiality (1) Magistrate Judge Jodi F. Jayne had improper discussion with Respondent and Respondent's counsels. (2) Magistrate Judge abused her power in excess of her jurisdiction in ruling on some motions she never has any authorities, and issuing temporary restraining order and preliminary injunctions to help and protect Respondent. (3) Magistrate Judge displayed deepseated favoritism to Respondent, and antagonism to Petitioner. Magistrate Judge Jodi F. Jayne **initially and actively** offered Defendant *ex parte* letter, and protective order for discovery not only demonstrated magistrate judge had improper discussion with Defendant and Defendant's counsels, but also violated Code of Conduct for United States Judges Cannon 3A (4), either. From magistrate judge's rulings and minute orders or protective order (Dkt. Nos. 37, 70, 93, 95, 108), the Tenth Circuit can see magistrate judge's deepseated favoritism to Respondent, and antagonism to Petitioner, and “*improper legal*” offense in helping and protecting Respondent and Respondent's counsels' guilt, crime, contempt and copyright infringement, etc.

Moreover, magistrate judge knowingly violated U.S. laws and Statutes to rule on Plaintiff's motion to imposing sanction on Defendant's copyright infringement (Dkt. No.

34) and *Plaintiff's motion for contempt* (Dkt. No. 89) without any authorities. Also, magistrate judge knowingly, willfully and blatantly violated Fed. R. Civ. P. 65(b) to issue temporary restraining order (Dkt. No. 95) and 28 U.S. Code § 636 (b)(1)(A) to issue preliminary injunctions. Magistrate judge's behaviors were in excess of the jurisdiction U.S. laws grant a magistrate judge.

This petition complies with the requirements of a Writ of Prohibition.

V. Conclusion

In accordance with foregoing, Petitioner respectfully requests the Tenth Circuit for a Writ of Prohibition directing Magistrate Judge Jodi F. Jayne to be prohibited from Petitioner's case in any further proceedings in the matter of *Bo Zou v. Linde Engineering North America, Inc.*

The Petition for a writ of Prohibition should be granted.

Respectfully Submitted,

Bo Zou

Signature

Date: January 11, 2021

Bo Zou

4920 S Yorktown Avenue, #122

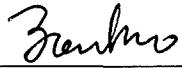
Tulsa, OK 74105

Phone: 713-835-8655

CERTIFICATE OF SERVICE

I hereby certify that on January 11, 2021 I sent a copy of
In re Petition for Writ of Prohibition to Respondent's counsels Jonathan G. Rector and
Jessica L. Craft, at JRector@littler.com, Craft@littler.com, LHedrick@littler.com;
LSchwenkel@littler.com, the last known address/email address, by email _____.

January 11, 2021
Date



Signature

Bo Zou
4920 S Yorktown Avenue, #122
Tulsa, OK 74105
Phone: 713-835-8655

Appendix “1”

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

BO ZOU,

Plaintiff,

v.

Case No. 19-cv-00554-JFH-JFJ

LINDE ENGINEERING NORTH
AMERICA, INC.,

Defendant.

ORDER

Before the Court is the Motion for Objecting to the Court Order to Refer “Plaintiff’s Motion for Change of Magistrate Judge” to Magistrate Judge Herself (“Motion”) [Dkt. No. 85] filed by Plaintiff Bo Zou (“Plaintiff”). Plaintiff filed a Motion for Change of Magistrate Judge [Dkt. No. 40] citing 28 U.S.C. § 455(a). Dkt. No. 40 at 1. The cited statute governs the recusal of “any justice, judge, or magistrate judge of the United States . . .” 28 U.S.C. § 455(a). Additionally, the statute provides that the judge “shall disqualify *himself* in any proceeding in which his impartiality might reasonably be questioned.” *Id.* (emphasis added). The statute does not provide a means for a district judge to disqualify a magistrate judge. Therefore, this Court appropriately referred the Motion for Change of Magistrate Judge to Magistrate Judge Jayne to be considered pursuant to Section 455. Dkt. No. 83.

As an initial matter, the Motion is moot as Judge Jayne has already considered Plaintiff’s Motion for Change of Magistrate Judge. Dkt. No. 109. Furthermore, Plaintiff cites no authority for his position that the Court should reassign a different magistrate judge to his case. *See* Dkt. No. 85 at 1. Judge Jayne has determined recusal is not appropriate here, and Plaintiff is not entitled to choose the judge assigned to his case. “Litigants, either civil or criminal, have no right to choose

the judge to whom their case is assigned, unless for some reason that particular judge is disqualified from hearing the case.” *United States v. Burney*, No. 07-cr-137, 2012 WL 273922, at *3 (S.D. Ohio Jan. 31, 2012); *McCuin v. Texas Power & Light Co.* 714 F.2d 1255, 1265 (5th Cir. 1983) (“Judges do not choose their cases, and litigants do not choose their judges.”).

Furthermore, the Court has reviewed Plaintiff’s Motion for Objecting to Magistrate Judge’s Opinion and Order, and Motion to Deny or Remove Magistrate Judge’s Injunctions [Dkt. No. 114] wherein Plaintiff argued Judge Jayne’s decision to not recuse herself was clearly erroneous and contrary to law. *See* Dkt. No. 114 at 9-11. The Court concluded Judge Jayne’s decision was not clearly erroneous or contrary to law.

IT IS THEREFORE ORDERED that Plaintiff’s Motion for Objecting to the Court Order to Refer “Plaintiff’s Motion for Change of Magistrate Judge” to Magistrate Judge Herself [Dkt. No. 85] is **DENIED**.

IT IS FURTHER ORDERED that the case remains stayed pending resolution of this Court’s ruling on Defendant’s Motion for Sanctions [Dkt. No. 112]. *See* Dkt. No. 130.

DATED this 14th day of December, 2020.



JOHN F. HEIL, III
UNITED STATES DISTRICT JUDGE

Appendix “2”

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

BO ZOU,)
Plaintiff,)
v.)
LINDE ENGINEERING NORTH)
AMERICA, INC.,)
Defendant.)

Case No. 19-CV-554-JFH-JFJ

OPINION AND ORDER

Before the Court are numerous pending discovery motions and/or motions referred to the undersigned for disposition. (ECF Nos. 18, 40, 42, 51, 54, 60, 80, 86, 89, 94).¹

I. Defendant's Request for Special Discovery Management Order (ECF No. 80, Part VIII.F, referred by ECF No. 92)

In the Status Report filed July 24, 2020, Defendant requests that both parties be limited to four fact witness depositions and that Plaintiff be required to seek leave of Court before serving any additional written discovery requests on Defendant. ECF No. 80 at 8-9.² Upon referral of this issue, the Court gave Plaintiff the opportunity to respond. ECF No. 103. Plaintiff objects to any limits on the number of depositions, arguing that all ten proposed deponents have relevant information and that ten depositions is proportional to the needs of the case. Plaintiff also argues that Defendant should not be permitted to change its original position, which was that each party could conduct a range of six to ten fact-witness depositions. *See* ECF No. 16 at 5.

¹ Plaintiff's Motion for Contempt (ECF No. 89) has not been expressly referred but relates to Defendant's alleged discovery failures. The Court rules on this motion pursuant to General Order 05-09, which refers all discovery matters in civil cases to the assigned magistrate judge.

² The Court addresses Defendant's request to prohibit or limit further written discovery in the context of the Motion for Protective Order addressed *infra* Part VII.

Federal Rule of Civil Procedure 26(b)(2)(A) provides that “[b]y order, the court may alter the limits in these rules on the number of depositions and interrogatories or on the length of depositions under Rule 30. By order or local rule, the court may also limit the number of requests under Rule 36.” Rule 26(b)(2)(C)(i) and (iii) provide that the Court must limit discovery if it determines that the proposed discovery is “unreasonably burdensome or duplicative” or “outside the scope permitted by Rule 26(b)(1),” *i.e.*, not relevant or proportional to the needs of the case. Proportionality requires consideration of “the importance of the issues at stake in the action, the amount in controversy, the parties’ relative access to relevant information, the parties’ resources, the importance of the discovery in resolving the issues; and whether the burden or expense of the proposed discovery outweighs its likely benefit.” Fed. R. Civ. P. 26(b)(1).

This is an employment discrimination case that will turn on whether Plaintiff was subject to discriminatory treatment during a reduction in force. The Court is familiar with Plaintiff’s theory of the case, Defendant’s defenses, and the damages at issue, based on: (1) the Court’s review of written discovery requests by both parties, (2) Plaintiff’s proposed deponents and Plaintiff’s description of their proposed testimony, and (3) the two Joint Status Reports setting forth detailed factual summaries. After consideration of the likely benefit of ten fact witness depositions, compared to the burden and expense of permitting that number of depositions, the Court finds Plaintiff’s requested number to be excessive and finds Defendant’s proposed limit to be reasonable and proportional.

Contrary to Plaintiff’s arguments, Defendant permissibly changed its position regarding the number of depositions that should be allowed between the time of filing the original Joint Status Report on January 8, 2020, and the second Status Report, on July 24, 2020. The district judge first assigned to the action did not set a schedule or rule on any issues presented in the original Joint Status Report. When the case was reassigned to a new district judge, he ordered a

new report for the purpose of setting a schedule. The reassigned district judge was well within his discretion to order a new status report and refer any discovery management issues presented therein. In turn, Defendant was entitled to propose new discovery limits and deadlines, based on developments in the case during this time.

Defendant's Request for Special Discovery Management Order (ECF No. 80, Part VIII.F) is GRANTED. Exercising its discretion under the above rules, the Court initially limits both parties to four fact witness depositions. The parties may seek relief from this deposition limit, but only after conducting the number of authorized depositions and upon a showing of good cause.

II. Defendant's Motion to Quash and for Protective Order (ECF Nos. 51, 54)

These motions seek a protective order pursuant to Federal Rule of Civil Procedure 26(c), for the purpose of preventing the ten depositions noticed by Plaintiff for the week of June 23, 2020. The Court granted Defendant's motion to stay the depositions pending the Court's ruling on this Motion to Quash and for Protective Order. *See* ECF No. 58.

The Court has now placed limits on the number of fact-witness depositions pursuant to Rule 26(b)(2)(A), as requested by Defendant. Plaintiff shall inform Defendant of his four requested deponents no later than one week from the date of this Order, and the parties shall confer regarding these depositions. With the limits imposed, the parties may be able to resolve further disputes, and the Court denies the current motion without prejudice to refiling. The Court finds inadequate justification to conduct these depositions at the courthouse, as requested by Defendant, and will permit any depositions to proceed at the office building selected by Plaintiff.

Defendant's Motion to Quash and for Protective Order (ECF No. 51, 54) is DENIED as moot, without prejudice to refiling.

III. Plaintiff's Motion to Compel and for Sanctions (ECF No. 60)

This motion relates to Plaintiff's third set of requests for production and second set of Interrogatories, which were served on April 6, 2020. Plaintiff moves to compel Request for Production ("RFP") 1, 2, 3, & 5 and Interrogatory ("ROG") 20.

RFP 1, 2, 5 – Denied. The Court granted Plaintiff's motion to compel ESI, including emails relevant to the case, by identifying two custodians and ordering Defendant to search certain terms. The Court outlined the scope of proportional ESI discovery, and this is an attempt by Plaintiff to circumvent that ruling with additional requests. Further, with respect to RFP 2, Defendant already produced responsive documents and has re-run its search to determine if further responsive documents exist.

RFP 3, ROG 20 – Denied. Plaintiff now has the entire employment history for Sharp and Duncan. Defendant has explained that the word "tenured" did not refer to any specific promotion, but instead referred to these two employees being senior to Plaintiff at the time of the reduction in force. Defendant need not produce further documents or provide further explanation.

Plaintiff's Motion for Sanctions is premised on Defendant's delay in producing a signed verification, which has now been produced.

Plaintiff's Motion to Compel and for Sanctions (ECF No. 60) is DENIED.

IV. Plaintiff's Motion to Compel and for Sanctions (ECF No. 86) and Plaintiff's Motion for Contempt (ECF No. 89)

This motion relates to Plaintiff's fourth set of requests for production, which were served on May 11, 2020. Plaintiff moves to compel RFP 5 and 6.

RFP 5 – Denied. This request for communications between Defendant and ICC has already been denied by the Court, and the Court maintains its prior ruling.

RFP 6 – Denied. Defendant is not withholding responsive documents and represented that it will produce any responsive documents in its possession, custody, or control.

Plaintiff's requests for sanctions and contempt are based on Defendant's alleged perjury in discovery responses, falsifying documents, failing to meet deadlines, and failing to produce documents ordered by the Court. The Court has reviewed the correspondence between the parties, including emails from Plaintiff requesting additional documents or discovery, and responding emails from Defendant. Following is an example of a response from Defendant:

On RFP's 2, 3, 4, and 7, you cannot agree to narrow the request for production and then attempt to have Defendant "follow Plaintiff's requirements" as set forth in the original RFP's. We have complied with the Court's order and produced all documents as ordered by the Court. On RFP 21, as I've said repeatedly, we do not have any additional documents responsive to this request. For the balance of your email, we have produced all email correspondence that references you, your performance, your complaint, and your termination in compliance with the Court's order.

ECF No. 94-1.

Upon review of the correspondence submitted by both parties and Defendant's discovery responses, the Court finds no grounds for imposing sanctions upon Defendant or holding Defendant in contempt. The Court finds no cogent or persuasive argument that Defendant has misled the Court, fabricated evidence, failed to comply with Court orders, or otherwise engaged in anything resembling sanctionable or bad-faith litigation conduct.

Plaintiff's Motion to Compel and for Sanctions (ECF No. 86) and Plaintiff's Motion for Contempt (ECF No. 89) are DENIED.

V. Plaintiff's Motion for Change of Magistrate Judge (ECF No. 40)

Plaintiff's Motion for Change of Magistrate Judge, which expressly references 28 U.S.C. § 455(a), was referred to the undersigned. Plaintiff seeks the undersigned's disqualification based on the following: (1) displaying a "high favoritism to Defendant and antagonism to Plaintiff" in

the undersigned's ruling on discovery motions on May 19, 2020; and (2) permitting Defendant to submit an *ex parte* letter to the Court in support of its assertion of privilege. *See* ECF No. 4.

The recusal statutes require a judge to disqualify himself if "his impartiality might reasonably be questioned," or if "he has a personal bias or prejudice concerning a party." 28 U.S.C. § 455(a) & (b)(1). A judge must recuse himself when there is the appearance of bias, regardless of whether there is actual bias. *Bryce v. Episcopal Church in the Diocese of Colo.*, 289 F.3d 648, 659 (10th Cir. 2002). "The test is whether a reasonable person, knowing all the relevant facts, would harbor doubts about the judge's impartiality." *Id.* The "recusal statute should not be construed so broadly as to become presumptive or to require recusal based on unsubstantiated suggestions of personal bias or prejudice." *See Switzer v. Berry*, 198 F.3d 1255, 1258 (10th Cir. 2000). The decision to recuse is committed to the sound discretion of the district court, and the movant bears a substantial burden to demonstrate the judge is not impartial. *United States v. Burger*, 964 F.2d 1065, 1070 (10th Cir. 1992).

The undersigned has no relationship with Defendant, its lawyers, or its witnesses. Plaintiff's assertions of bias are based on the undersigned's substantive discovery rulings. The undersigned will briefly address these frivolous arguments. First, a review of the May 19, 2020, discovery Order reveals no bias in favor of Defendant or against Plaintiff. The undersigned granted Plaintiff's motion to compel in part and ordered Defendant to produce a significant amount of ESI over its objection. The undersigned found that language used by Plaintiff in a letter to a third party was threatening and inappropriate, caused the Court concern about Plaintiff's abuse of the discovery process, and warranted a limited protective order regarding third-party subpoenas. However, these rulings were based on the facts and law presented, rather than based on bias. Second, permitting *ex parte* submission of allegedly privileged documents does not show favoritism. In the motion to compel, Plaintiff successfully argued that Defendant's assertion of

work-product privilege was improper, based on information in Defendant's privilege log. The Court agreed with Plaintiff and ordered Defendant to produce the documents to Plaintiff, or submit further information *ex parte* in support of its privilege assertion. Defendant elected to produce the documents to Plaintiff rather than further pursue its privilege assertion, and Plaintiff prevailed on this issue. The undersigned's impartiality cannot reasonably be questioned based on discovery rulings or other facts.

Plaintiff's Motion for Change of Magistrate Judge (ECF No. 40) is DENIED.

VI. Plaintiff's Motions for Chinese (Mandarin) Translator (ECF Nos. 18, 42)

Upon filing his Complaint, Plaintiff requested a Chinese translator. The district judge originally assigned to the case stated in a minute order: "There are no hearings set at this time, and the plaintiff's Complaint is coherent and is filed in English. As the litigation progresses, if a translator becomes necessary for purposes of accommodating plaintiff's accent (e.g. during deposition, court hearings) or for any other reason, the Court will consider a renewed motion for appointment of a translator." ECF No. 9. In his first renewed motion, Plaintiff "requests that the Court find a Chinese (Mandarin) translator for the case hearing and trial because of plaintiff's some English accent." ECF No. 18. In his second motion, requests a translator at a hearing requested by Plaintiff in ECF No. 41. These two motions were referred to the undersigned.

The Court has not scheduled or conducted any pretrial hearings. Plaintiff's briefs demonstrate his strong command of the English language, and Plaintiff has fully and adequately represented himself on all issues. Plaintiff has suffered no prejudice based on the Court's failure to appoint a translator. To the extent Plaintiff requests a translator for purpose of the specific hearing requested in ECF No. 41, the motion is denied as moot, because the district judge did not schedule a hearing on the motion.

To the extent Plaintiff is requesting that the Court appoint a translator for trial, depositions, or hearings that may be scheduled in the future, the Court denies the motion. *Pro se* parties in civil cases are generally not entitled to a court-provided translator. *See Desulma v. Goolsby*, No. 98CIV.2078(RMB)(RLE), 1999 WL 147695, at *1 (S.D.N.Y. Mar. 16, 1999) (“In general, a pro se civil plaintiff is not entitled to an interpreter or translator.”); *Vargas-Rodriguez v. Ortiz*, No. CV 18-2628(RMB), 2019 WL 2366968, at *6 (D.N.J. June 5, 2019) (collecting cases). Plaintiff elected to file the lawsuit, Plaintiff is not indigent, and Plaintiff shall be required to locate and provide his own translator for future court proceedings at which he desires the presence of a Chinese translator.³

VII. Defendant’s Motion for Protective Order (ECF No. 94)

In this motion for protective order, which was filed August 11, 2020, Defendant seeks a protective order that (1) requires Plaintiff to seek leave of Court before filings any further pleadings or motions; (2) requires Plaintiff to seek leave of court before serving Defendant with any additional discovery requests or notices of depositions; and (3) excuses Defendant’s obligation to respond to ECF Nos. 85, 86, and 89. ECF No. 94 at 6-7. On August 12, 2020, by minute order, the Court excused Defendant’s response obligations and prohibited Plaintiff from filing further motions on a temporary basis, until the Court had the opportunity to rule on Defendant’s motion for protective order. ECF No. 95.⁴ The Court then ordered Plaintiff to respond to the motion for protective order, and Plaintiff filed a substantive response. ECF No. 104. Plaintiff argues that

³ This ruling may be revisited at the time of any scheduled hearing or trial, or upon assessing the difficulty of conducting proceedings if Plaintiff fails to provide his own translator. This ruling will not be revisited for purposes of depositions.

⁴ This minute order was not intended as a permanent filing restriction or other sanction. Instead, it was intended to pause Plaintiff’s filings while the Court resolved the motion for protective order and numerous other motions. This effort was largely unsuccessful, as Plaintiff filed six different “objections” following the Court’s minute order. ECF Nos. 100-105.

Defendant has been “abusing protective orders” and that Defendant has blatantly misled the Court on numerous occasions. *Id.* at 1.

The Court may issue a protective order to protect a party from annoyance, embarrassment, oppression, or undue burden or expense in responding to discovery. Fed. R. Civ. P. 26(c)(1); *Boughton v. Cotter Corp.*, 65 F.3d 823, 829-30 (10th Cir. 1995) (“Rule 26(c) is broader in scope than the attorney work product rule, attorney-client privilege and other evidentiary privileges because it is designed to prevent discovery from causing annoyance, embarrassment, oppression, undue burden or expense not just to protect confidential communications.”).

Defendant has adequately shown the need for protection from undue burden in relation to Plaintiff’s discovery practices. To be clear, Plaintiff has filed non-frivolous discovery motions, including his original motion to compel discovery responses. However, following the Court’s ruling on his first motion to compel, Plaintiff filed several frivolous motions to compel burdensome and repetitive discovery requests that directly contradict this Court’s orders. In total, Plaintiff has now issued eleven different sets of discovery, including five sets of requests for production. Plaintiff has also filed frivolous motions for sanctions and contempt, accusing Defendant of deceitful and sanctionable discovery conduct without justification. Plaintiff has also objected to every unfavorable ruling issued by the Court, requiring Defendant to respond to frivolous objections. This has posed an undue burden on Defendant and the Court’s docket.

Based on Plaintiff’s conduct to date, the Court finds good cause for issuance of a limited protective order pursuant to Rule 26(c)(1) to manage discovery, avoid unnecessary expense, and avoid burdensome discovery-related motion practice. The Court issues a protective order that prohibits Plaintiff from: (1) issuing any further written discovery requests to Defendant, either in the form of interrogatories or requests for production, absent leave of Court; or (2) filing further motions for contempt or sanctions in relation to any of Defendant’s written discovery responses.

Defendant is excused from filing responses to ECF Nos. 85, 86, and 89, which the Court finds to be frivolous discovery-related motions that do not require a response.

The Court lifts the prohibition on Plaintiff's ability to file motions. *See* ECF No. 95. At this time, the Court declines to impose any permanent filing restrictions as a sanction under Federal Rule of Civil Procedure 11 or to invoke the Court's inherent powers to control abusive litigation conduct. *See generally Hutchinson v. Hahn*, No. 05-CV-453-TCK PJC, 2007 WL 2572224, at *5 (N.D. Okla. Sept. 4, 2007) (explaining Rule 11 sanctions, court's inherent power to impose sanctions, and notice requirements prior to imposing sanctions). The Court declines to do so for two reasons. First, Defendant's motion was styled as one for protective order and did not expressly reference "sanctions" in the title, causing a potential notice problem. Second, the motion was automatically referred to the undersigned because it was styled as a motion for protective order. Any motion for Rule 11 sanctions, or sanctions under the Court's inherent power, are within the province of the district judge, absent an express referral. If Defendant seeks to impose sanctions against Plaintiff under Rule 11 or otherwise, it shall file a properly styled motion that clearly triggers procedural rules governing such motions.

VIII. Conclusion

It is hereby ORDERED that:

1. Defendant's request for special discovery management limitations (ECF No. 80, Part VIII.F, referred by ECF No. 92) is GRANTED. The Court imposes a discovery management limit of four (4) fact witness depositions for both parties.
2. Defendant's Motion to Quash and for Protective Order (ECF Nos. 51, 54) are DENIED without prejudice to refiling.
3. Plaintiff's Motion to Compel and for Sanctions (ECF No. 60) is DENIED.
4. Plaintiff's Motion to Compel and for Sanctions (ECF No. 86) and Plaintiff's Motion for Contempt (ECF No. 89) are DENIED.
5. Plaintiff's Motion for Change of Magistrate Judge (ECF No. 40) is DENIED.

6. Plaintiff's Motions for Chinese (Mandarin) Translator (ECF Nos. 18, 42) are DENIED.
7. Defendant's Motion for Protective Order (ECF No. 94) is GRANTED in part, and the Court enters the following protective order. Plaintiff is prohibited from:
 - (1) issuing any further written discovery requests to Defendant, absent leave of Court; and
 - (2) filing any further motions for contempt or sanctions in relation to any of Defendant's current discovery responses.⁵
8. The Court declines to impose the sanction of filing restrictions at this time, and the temporary restriction imposed by ECF No. 94 is lifted.

SO ORDERED this 21st day of September, 2020.



JODI F. JAYNE, MAGISTRATE JUDGE
UNITED STATES DISTRICT COURT

⁵ The Court's prior Protective Order, which requires Plaintiff to seek leave of court to issue third-party subpoenas and avoid threatening or harassing behavior to third parties, also remains in place. See ECF No. 37 at 10.

Appendix “3”

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

BO ZOU,)
Plaintiff,)
v.)
LINDE ENGINEERING NORTH)
AMERICA, INC.,)
Defendant.)

Case No. 19-CV-554-JED-JFJ

ORDER

Before the Court are: (1) Plaintiff's motions to compel written discovery responses from Defendant (ECF Nos. 22, 24, 30, 31); (2) Plaintiff's motion to compel responses to a third-party subpoena issued to Alex Alexandrov, of ICC Northwest ("ICC"), which is within Plaintiff's response to Defendant's motion to quash (ECF No. 25 at 9);¹ and (3) Defendant's motion to quash the subpoena to ICC and for sanctions or a protective order (ECF No. 19, 20).

I. Background

Plaintiff, appearing *pro se*, sued his former employer, Defendant Linde Engineering North America, under Title VII of the Civil Rights Act for age discrimination, race discrimination, and retaliation. Plaintiff worked for Defendant for less than a year from October of 2018 to August of 2019. Plaintiff, who is Asian American, alleges he was “treated differently than other similarly situated White and younger employees.” ECF No. 1 at 2. He further asserts a retaliation claim, alleging that on “5/10/19 I communicated with vice president, Mr. David Close and highlighted

¹ In the interest of efficiency and preserving resources of the parties and ICC, the Court excuses Plaintiff's failure to file a separate motion and will address Plaintiff's motion to compel the ICC documents on the merits. The Court denies the motion and finds no need for ICC to file a response brief.

the unfair treatment. However, in less than three months of my complaints I was selected for a company wide reduction in force.” *Id.* Plaintiff further explained the factual bases for his claims in the Joint Status Report. Plaintiff states that: (1) he was excluded from trainings and project meetings while younger engineers named Kenny Sharp and Dustin Duncan were not; (2) he was retaliated against by his supervisor, Jerry Gump, after complaining about unfair treatment by Gump, and after reporting “big mistakes” by Sharp in relation to specific projects; and (3) he was selected for a reduction in force based on his race, age, and in retaliation for raising complaints. ECF No. 16 at 1-3.

Plaintiff has issued at least two sets of discovery requests, including requests for production, interrogatories, and requests for admission. *See* ECF Nos. 22-1 (47 requests for production); ECF No. 30-1 (10 additional requests for production); 30-2 (17 interrogatories); 30-3 (13 requests for admission). Defendant has produced documents and a privilege log. Defendant lodged numerous objections to Plaintiff’s discovery requests, and Plaintiff filed the two pending motions to compel complete responses from Defendant.

Plaintiff also issued a third-party subpoena to Mr. Alex Alexandrov, of ICC Northwest (“ICC”). By email from ICC’s in-house counsel to Plaintiff, ICC objected to the subpoena. ECF No. 19-10. Defendant filed the pending motion to quash based on procedural deficiencies. Defendant also seeks sanctions or a protective order, due to threatening language by Plaintiff in an email sent to ICC’s in-house counsel. In his response to Defendant’s motion to quash, Plaintiff moved to compel responses from ICC.

II. Plaintiff’s Motions to Compel Discovery Responses from Defendant

As an initial matter, the Court declines to deny the motion based on any failure to meet and confer as to specific requests and reaches the merits of the motions.

A. First Motion to Compel (ECF No. 22)

RFP 2, 3, 4, 7, 36: Granted, as limited by Plaintiff. Plaintiff limited requests 2, 3, 4, and 7 to “cryogenic piping class specifications C40 and C60 on March 2 & 3, 2020.” ECF No. 22 at 4. Plaintiff limited RFP 36 to production of two “shop skid” photographs for an XTO project, which were sent to Plaintiff by email from Eric Cantos. Plaintiff argues these piping specifications and photographs are relevant to showing that his work performance was excellent, while younger engineers made mistakes on projects. Defendant contends these documents are irrelevant and that they are confidential information of Defendant and its customers.

Plaintiff’s general work performance in comparison to younger employees that were not laid off may be relevant to the issue of pretext. *See Pippin v. Burlington Res. Oil And Gas Co.*, 440 F.3d 1186, 1193 (10th Cir. 2006) (explaining methods of demonstrating pretext in RIF case, where plaintiff argued that RIF was manipulated in light of plaintiff’s “good performance”). These requests are specific, not overbroad, and Plaintiff has already viewed these documents. Defendant shall only be compelled to produce the documents subject to a protective order, in order to protect any confidential information and prevent use of the information for purposes other than the litigation.

RFP 6: Granted, no objection.

RFP 9-14: Denied. These broad requests for Plaintiffs’ email communications with other individuals and/or groups of individuals are aimed at discovering performance-related information that will permit comparison between Plaintiff and younger employees.

Although performance information is relevant, these requests are vague and an overly broad fishing expedition that will result in production of significant amounts of irrelevant business communications. It is unclear whether Plaintiff is requesting Defendant search for only those

emails where all listed individuals were included as recipients, or all emails between Plaintiff and each listed individual. Under either interpretation, the majority of emails that would be searched for, reviewed, and produced are unlikely to contain any specific or clear performance-related information, such as a performance review. Instead, Plaintiff appears to be seeking all emails about a significant number of particular projects, so that he can show younger engineers made technical mistakes. While there may be some relevant performance-related information within these requested communications, the Court finds the requests vague, facially overbroad, and not proportional to the needs of the case, considering all Rule 26(b)(1) factors.

The Court cannot discern or craft reasonable limits to place on RFP 9-14 that would render the requests reasonable and proportional. Further, Plaintiff was terminated during a RIF and not for performance-related issues. Although performance information may be relevant to the issue of pretext, it is of less importance to the needs of the case than discussion of Plaintiff following his complaint, as requested in RFP 15-19.

RFP 15-19: Granted in part and denied in part. These broad requests are for email communications sent by numerous employees that mention Plaintiff. According to Plaintiff, these requests are aimed at: (1) determining Defendant’s “internal response” after Plaintiff’s complaint in May 2019, and (2) whether Gump “asked other employees to isolate Plaintiff from the emails.” ECF No. 22 at 6. Discussion of Plaintiff after his complaints about Gump are directly relevant to retaliation and other issues in the case, and it is not overly speculative that relevant information regarding Plaintiff would be contained in internal communications following such complaint.

As a reasonable limit on Requests 15-19, which are vague and would require extensive ESI searches, the Court orders Plaintiff to provide the names of two custodians, or individuals within the company, whose email accounts are most likely to contain relevant information. Defendant

shall search these custodians' email accounts for the identifying terms listed in the current requests during the limited time period of May 6, 2019 (the date of the complaint) and August 17, 2019 (the date of termination). This is a proportional ESI search for the information requested in RFP 15-19, considering all Rule 26(b)(1) factors. The documents may be produced pursuant to a protective order.

RFP 20, 23, 24: Granted in part and denied in part. As to these requests, Plaintiff contends Defendant has improperly withheld certain documents as privileged, has lied about not possessing responsive documents, has doctored certain documents, and has otherwise engaged in bad-faith discovery conduct. Plaintiff requests various forms of relief, including physical inspection and production in different formats.

The Court finds Defendant has not engaged in any intentional misrepresentations to Plaintiff or other bad-faith discovery conduct. Defendant produced documents, cooperated with Plaintiff, and made efforts to understand his positions. Therefore, the Court denies Plaintiff's requests for physical inspection of the documents and/or for production of documents in any different format. The Court addresses Plaintiff's challenges to privilege assertions below.

RFP 21: Granted in part. Defendant is ordered to provide additional documents, if any exist, showing money contributed or any other financial benefits provided to Plaintiff in relation to insurance.

RFP 26: Granted. As explained and limited in Plaintiff's motion, this request seeks emails and meeting records discussing a specific project in which Sharp, a younger, retained employee, allegedly made mistakes regarding long pattern ball valves and short pattern ball valve issues. This was discussed in Plaintiff's internal complaint in May of 2019. The Court finds the information relevant to pretext, not overly broad, and proportional to the needs of the case, as limited by the

Court. Defendant shall conduct a reasonable search for emails, memos, or meeting records during January and February of 2019 discussing Sharp, the Crestwood project, and ball valve issues. These documents may be produced pursuant to a protective order.

RFP 27: Denied. This request is vague and not a proper request for production.

RFP 28: Denied. Based on Plaintiff's behavior in relation to ICC, which is discussed below, the Court has concerns about providing Plaintiff the last known addresses and phone numbers of eight of Defendant's former employees. The Court shares Defendant's concerns that Plaintiff will harass the individuals during the discovery process. Further, Plaintiff failed to explain what relevant information these individuals may have. Under these circumstances, the Court finds Defendant's interest in protecting third parties' personal information and privacy outweighs Plaintiff's need to obtain the personal contact information.

RFP 32: Granted in part. Defendant shall provide job descriptions, if any exist, for the positions held by Kenny Sharp and Dustin Duncan during the time of Plaintiff's employment, if not previously provided. With these limitations, the Court overrules Defendant's vagueness and other objections.

RFP 33, 34: Denied as to all salary information. Plaintiff does not allege he was treated differently than younger employees in terms of salary. Granted as to documents showing any promotions or demotions of these employees. These documents may be produced pursuant to a protective order. The date range is limited to Plaintiff's span of employment.

RFP 35: Moot. Defendant has represented it has no responsive documents.

RFP 37-38: Granted. Defendant shall produce all non-privileged responsive documents, to the extent any have been withheld.

RFP 42: Granted in part. Defendant shall provide responsive organizational charts that were current and in existence during the time of Plaintiff's employment. Defendant may redact other departments. With these limitations, the Court overrules Defendant's vagueness and other objections.

PRIV 0004, 0005, 0006: Plaintiff challenges whether these documents are subject to the work product privilege. The privilege log reflects these are internal, pre-suit communications between Defendant's employees regarding Plaintiff's internal complaint three months prior to the RIF. Defendant's description is not sufficient to establish a "work product" privilege. Defendant may either produce the documents, or submit the documents *in camera* to the Court for review, along with an explanation via *ex parte* letter to the Court as to why these notes and memorandum qualify for a work product privilege.

PRIV 290-291: Plaintiff challenges certain redactions of names from this email under the "Pipe Engineer" heading. According to the privilege log, names are redacted to protect "personal privacy information." With respect to the redactions under the heading "Pipe Engineer," any interest in protecting these individuals' names is outweighed by the importance of the information to the case. Defendant shall produce the document without that redaction. Other redactions of names of individuals in other departments may remain.

B. Second Motion to Compel (ECF No. 30)

RFP 6, 7: Denied. Plaintiff seeks his former counsel's correspondence with Defendant for the purpose of explaining to the Court how former counsel "cheated" in relation to settlement negotiations. *See* ECF No. 30 at 3. This is not relevant to claims or defenses asserted in this case.

RFP 9: Denied. Plaintiff has failed to show the relevance of Defendant's communications with "job recruiters" following his termination. This is further explained in Part III below.

ROG 13: Denied. Plaintiff's request for all discrimination claims against Defendant for the past eight years is facially overbroad and seeks irrelevant information. Defendant has adequately responded to this interrogatory by responding that there have been no discrimination claims against Gump in the past three years.

ROG 14: Denied. Defendant adequately responded by referring to business records previously produced regarding the May 2019 investigation, as permitted by Rule 33(d).

ROG 15: Denied. This request seeks "facts to support a termination of the Plaintiff after he was terminated." This request is vague, but it appears to be aimed at attorney mental impressions and other privileged information. Defendant will be required to disclose its witness and exhibit lists in due course.

RFA 7, 8, 10, 12: Denied. These requests for admission are vague, confusing, and not capable of being admitted or denied.

C. Motions for Sanctions (ECF Nos. 24, 31)

Defendant has complied timely and in good faith to all discovery requests. Further, Defendant lodged good-faith objections to the discovery requests, although some were overruled by the Court. The Court denies Plaintiff's motions for sanctions.

III. Plaintiff's Motion to Compel Response to ICC Subpoena (within ECF No. 25 at 9)

According to Plaintiff, ICC employed him prior to his employment with Defendant. ICC also offered Plaintiff a part-time job in January 2020, after his employment with Defendant ended. ECF No. 25 at 2. The subpoena to ICC requests: (1) Plaintiff's employment documents and information from March 1, 2018 to present; (2) ICC's communications with "job recruiters" about Plaintiff since September 1, 2019; and (3) ICC's employees' communications with Plaintiff since

September 1, 2019. ECF No. 19-2. Plaintiff offered the following explanation as to the relevance of these requests:

At the end of January, 2020, ICC wanted Plaintiff to sign a very “strange” part-time job contract. ICC specified about 20-40 hours per week for the part-time job on that contract. However, Plaintiff found that NOW there are not any jobs provided for Plaintiff to do. According to ICC’s reply, the part-time job will start at the end of 2020 and next year 2021, and also the part-time job is based on future “if” and “assumption.” So, Plaintiff wondered why ICC needs Plaintiff NOW to sign a future part-time job contract, why to specify 20-40 hours per week for the job on that contract, but, no 20-40 hours per week jobs provided for Plaintiff to do now; also, the jobs are based on future “if” and “assumption,” i.e. the job is not guaranteed. So, Plaintiff asked ICC Human Resources Director Ms. Jennifer Bean a few times to confirm whether there were any third parties to inquire about Plaintiff’s employment information, or request ICC to help do something on Plaintiff. However, ICC never answered Plaintiff’s requests about a third party, attaches [sic] as EXHIBIT “B.” After ICC refuses to reply to Plaintiff’s requests and questions, Plaintiff filed a third party Subpoena to ICC by certified mail [see EXHIBIT “C”], and served on Defendant by regular mail, respectively on February 18, 2020.

ECF No. 25 at 2-3.

As an initial matter, the Court declines to quash the subpoena based on the two procedural deficiencies raised by Defendant. With respect to Plaintiff’s failure to provide notice prior to serving ICC with the subpoena as required by Rule 45(a)(4), the Court finds no prejudice flowing to Defendant from this technical violation and declines to quash the subpoena on this basis. *See Fujikura Ltd. v. Finisar Corp.*, No. 15MC80110HRLJSC, 2015 WL 5782351, at *4 (N.D. Cal. Oct. 5, 2015) (collecting cases declining to quash subpoena where party does not suffer prejudice from Rule 45 notice requirement). With respect to Plaintiff’s failure to cause service to be effected by someone who is “not a party,” as required by Rule 45(b)(1), the Court declines to quash the subpoena on this basis. The clerk of court signed the subpoena, and Plaintiff completed the subpoena and sent it via certified mail. Ordinarily, his attorney would have sent the subpoena, but Plaintiff appears *pro se*. Based on Plaintiff’s lack of attorney to send the subpoena on his behalf,

lack of prejudice to any party, and ICC's receipt of actual notice, the Court declines to quash the subpoena based on this technical violation. Were the court to quash the subpoena on either procedural basis, Plaintiff would likely re-serve the subpoena on ICC correcting these deficiencies, thereby resulting in further costs and delay. Plaintiff's motion to compel and substantive arguments are before the Court, as are ICC's written objections. The Court finds no need for further briefing from ICC and elects to reach the merits of the motion to compel in the interest of efficiency.

Plaintiff has failed to demonstrate the relevance of any documents requested from ICC. Documents related to his former employment with ICC clearly have no relevance to the issues presented in this lawsuit. The Court also cannot discern any relevance of ICC's communications with "job recruiters" regarding Plaintiff, or ICC's recent communications with Plaintiff. It appears Plaintiff is concerned that Defendant or other third parties have asked ICC to falsify records or somehow interfere with this lawsuit. Plaintiff states that he wishes to "ascertain [whether] any third parties . . . contact Plaintiff's former employer to inquire about Plaintiff's employment information, or to request ICC to do something on Plaintiff against Federal Law or State Law." *See* ECF No. 25 at 10. This is an overly speculative fishing expedition for information that may or may not exist and that has no discernible relevance to the current litigation. Accordingly, Plaintiff's motion to compel responses from ICC is denied, and ICC need not respond to the subpoena in any way.

IV. Defendant's Motion to Quash and for Sanctions/Protective Order (ECF Nos. 19, 20)

Defendant's motion to quash is denied for the reasons explained above, as the Court elects to excuse procedural deficiencies and rule on Plaintiff's motion to compel on the merits. Defendant also moved for sanctions or a protective order, based on threatening language in an

email from Plaintiff to ICC's in-house counsel. Although Plaintiff contends he was only threatening legal action, certain language could be viewed as threats to the safety of ICC and its employees. *See* ECF No. 19-10 ("For ICC, the best way is immediately to issue all the documents to me as I required. Perhaps, ICC and some ICC employees will be safe as long as ICC would like to get an agreement with me."). The Court will not countenance or tolerate any threatening behavior, and Plaintiff may not use the discovery power of this Court to intimidate, harass, or threaten third parties. If the Court becomes aware of any similar language or behavior by Plaintiff, Plaintiff is expressly warned that dismissal of his lawsuit may be the selected sanction. At this time, the Court declines to sanction Plaintiff but does issue a specific protective order as set forth below.

V. Conclusion

Plaintiff's motions to compel discovery from Defendant and for sanctions (ECF No. 22, 24, 30, 31) are granted in part and denied in part as set forth above.

Plaintiff's motion to compel responses to the ICC subpoena (ECF No. 25 at 9-10) is denied.

Defendant's motion to quash (ECF No. 19) is denied.

Defendant's motion for sanctions or protective order (ECF No. 20) is granted in part and denied in part. Based on language in the email from Plaintiff to ICC's counsel, the Court orders Plaintiff to: (1) disclose to Defendant any other third-party subpoenas that have been issued, if any; (2) seek leave of Court prior to issuing any further third-party subpoena; and (3) avoid any threatening or harassing behavior to other third parties in conducting discovery or otherwise prosecuting this case. Violations of this Order may result in sanctions, including dismissal.

Plaintiff shall confer with Defendant regarding RFP 15-19 no later than five days from the date of this Order. Defendant shall produce supplemental documents no later than 30 days from the date of this Order.

Defendant shall submit its *ex parte* letter, with attached documents, no later than 10 days from the date of this Order, if desired.

SO ORDERED this 19th day of May, 2020.



JODI F. JAYNE, MAGISTRATE JUDGE
UNITED STATES DISTRICT COURT

Appendix “4”

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

BO ZOU,)
)
 Plaintiff,) Case No. 19-CV-554-JED-JFJ
 v.)
)
 LINDE ENGINEERING NORTH)
 AMERICA, INC.,)
)
 Defendant.)

ORDER

Before the Court are several pending motions filed by pro se Plaintiff Bo Zou and Defendant Linde Engineering North America, Inc. The motions primarily relate to a discovery order entered by the Court on May 19, 2020 (“Discovery Order”). ECF No. 37.

I. Plaintiff’s Motions

A. Motion for Sanctions Related to Plaintiff’s Email to ICC (ECF No. 34) (referred by ECF No. 43)

Plaintiff requests sanctions against Defendant for obtaining and filing an email Plaintiff sent to third party ICC, because the email is protected by copyright law. This email was discussed by the Court in the Discovery Order and relates to discovery in this lawsuit. *See* ECF No. 37 at 10-11. The Court finds no legal violations or otherwise sanctionable conduct by Defendant in obtaining the email from ICC or filing it for the Court’s consideration. The motion for sanctions is denied.

B. Motion to Reconsider (ECF No. 38) (referred by ECF No. 43)

The Court granted Plaintiff’s motion to compel in several respects and ordered Defendant to supplement its document production. Plaintiff now moves the Court to reconsider the unfavorable aspects of the Court’s ruling. Plaintiff repeats arguments raised in the motion to

compel and continues to allege Defendant has engaged in discovery misconduct and misled the Court. ECF No. 38. Plaintiff has not shown that the Court misapprehended the facts, Plaintiff's legal position, or the law governing the parties' discovery disputes. Therefore, the Court denies the motion to reconsider. *See Servant of Paraclete v. Does*, 204 F.3d 1005, 1012 (10th Cir. 2000) (explaining that a motion for reconsideration is appropriate where the court has misapprehended the facts, a party's position, or the controlling law).¹

C. Motions for Hearing and Translator (ECF No. 45) (referred by ECF No. 46)

Plaintiff requests an in-person, five-hour hearing on his motion to reconsider.² In its discretion, the Court declines to conduct a hearing on the motion to reconsider or permit any further presentation of evidence related to the Court's Discovery Order. Due to the Court's denial of a hearing, Plaintiff's request for a translator at the hearing is denied as moot.

D. Motion to Strike and for Sanctions (ECF No. 59) (referred by ECF No. 61)

Plaintiff moves to strike Defendant's response to the motion to reconsider (ECF No. 49), because Defendant failed to serve the response on Plaintiff. Plaintiff admits that he received notice of the response no later than June 19, 2020, four days after it was filed. Plaintiff filed a timely reply that the Court has considered. ECF No. 65. Defendant's response brief sets forth specific facts and arguments relied on by the Court in denying Plaintiff's motion to reconsider, and the

¹ To the extent Plaintiff seeks reconsideration based on the Court's failure to await his reply brief in support of his motion to compel, the Court has now fully considered such brief. *See* ECF No. 38-1. Upon consideration of the reply, the Court reaches the same result and finds no grounds for reconsideration.

² Plaintiff also requested a hearing on his motion to reassign the undersigned judicial officer. ECF No. 41. That motion to reassign, and the corresponding request for hearing, are pending before the district judge.

Court finds no grounds for striking the document or sanctioning Defendant for any failure to serve Plaintiff with this document. The motion to strike and for sanctions is denied.³

II. Defendant's Motions

A. Motion for Entry of Protective Order (ECF No. 44) (automatic referral by Northern District G.O. 05-09)

The Court expressly contemplated entry of a blanket protective order permitting Defendant to designate certain documents as confidential. *See, e.g.*, ECF No. 37 at 6 (compelling production but stating documents may be produced pursuant to protective order). The Court finds that a blanket protective order will facilitate discovery and the flow of information at this stage of the proceedings. To the extent Plaintiff desires to challenge whether a confidentiality designation is proper, Defendant's proposed protective order permits such a challenge. *See* ECF No. 44-1 at ¶ 7. Accordingly, the motion for entry of a protective order is granted, and the Court will enter a protective order in the form attached as Exhibit 1 to Defendant's motion.

B. Motion for Extension of Time to Comply with Order (ECF No. 50) (referred by ECF No. 55)

Defendant requests an extension of the supplemental production deadline set by the Court in its Discovery Order. Defendant requests additional time to complete ESI searches and requests that the Court postpone the deadline until entry of a protective order. There is no scheduling order in place, and Plaintiff has not shown any prejudice resulting from the extension. Defendant has shown good cause for the requested extension. Defendant shall have five days from the date of entry of the protective order to complete its production.

³ The Court finds no need to permit a response or reply brief before denying this motion.

III. Conclusion

Plaintiff's motions addressed in this Order (ECF Nos. 34, 38, 45, 59) are DENIED. Defendant's motion for protective order (ECF No. 44) is GRANTED, and the Court enters Defendant's proposed protective order this date. Defendant's motion for extension of time (ECF No. 50) is GRANTED, and Defendant shall have five days from the date of entry of the protective order to complete its production.

The remaining motions pending before the undersigned (ECF Nos. 51, 54, 60) are not ripe for review and will be ruled on by separate Order. In the Joint Status Report to be filed July 24, 2020, the parties shall state whether the remaining discovery disputes pending before the undersigned have been narrowed or resolved in any manner.

SO ORDERED this 9th day of July, 2020.


JODI F. JAYNE, MAGISTRATE JUDGE
UNITED STATES DISTRICT COURT

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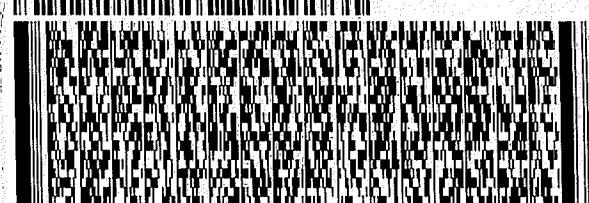
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APPENDIX G

**UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT
OFFICE OF THE CLERK**

Byron White United States Courthouse
1823 Stout Street
Denver, Colorado 80257
(303) 844-3157

Christopher M. Wolpert
Clerk of Court

January 13, 2021

Jane K. Castro
Chief Deputy Clerk

Bo Zou
4920 South Yorktown Avenue, Unit 122
Tulsa, OK 74105

RE: 21-5002, In re: Zou
Dist/Ag docket: 4:19-CV-00554-JFH-JFJ

Dear Mr. Zou:

Your petition for writ of prohibition has been docketed but will not be submitted to the court until proof of service is provided. Within 30 days of the date of this letter, you must provide proof of service of the petition on the district court judge (*See* Fed. R. App. P. 21(a)(1)), or this proceeding may be dismissed without further notice. *See* 10th Cir. R. 3.3(B). The enclosed form may be used.

Please contact this office if you have questions.

Sincerely,



Christopher M. Wolpert
Clerk of the Court

cc: Jessica L. Craft
Jonathan Gary Rector

CMW/djd

35
ACG
FILED

OCT 18 2019

Mark C. McCarrt, Clerk
U.S. DISTRICT COURT

1. BO ZOU

Plaintiff(s)

vs.

2. LINDE ENGINEERING NORTH AMERICA, INC.

Defendant(s)

Case Number: _____

19 CV 554 JED - JFJ

COMPLAINT - EEOC

Comes now the Plaintiff, BO ZOU and for his/her
claim against the Defendant(s), LINDE ENGINEERING NORTH AMERICA, INC.
states and alleges as follows:

1. This action is brought and jurisdiction lies pursuant to 42 U.S.C. §2000e-5. Venue is proper in this District.

2. Plaintiff is a(n) ASIAN MALE who resides at
(Race) (Sex)

3101 TOWNBLUFF DR. #322, PLANO, TX 75075

(Complete address)

3. The Defendant LINDE ENGINEERING NORTH AMERICA, INC. is an employer,
employment agency, or labor organization, as defined in 42 U.S.C. §2000e, and is located at
6100 S. YALE AVENUE, # 1200, TULSA, OK 74136

(Note: 3a-3f to be used if there is more than one defendant.)

3a. The Defendant _____ is an employer,
employment agency, or labor organization, as defined in 42 U.S.C. §2000e, and is located at

3b. The Defendant _____ is an employer,
employment agency, or labor organization, as defined in 42 U.S.C. §2000e, and is located at

3c. The Defendant _____ is an employer,
employment agency, or labor organization, as defined in 42 U.S.C. §2000e, and is located at

3d. The Defendant _____ is an employer,
employment agency, or labor organization, as defined in 42 U.S.C. §2000e, and is located at

Files P.A.
10/18/2019

3e. The Defendant _____ is an employer, employment agency, or labor organization, as defined in 42 U.S.C. §2000e, and is located at _____

3f. The Defendant _____ is an employer, employment agency, or labor organization, as defined in 42 U.S.C. §2000e, and is located at _____

4. On or about 08/07, 2019, defendant(s)
(Month/day) (Year)

(Specify the unlawful employment practices which you are alleging against the defendant(s), such as: refusal to hire, discharge from employment, harassment in employment, etc.)

I laid me off. During my employment, I have been treated differently than other similarly situated White and younger

employees. On 05/10/19 I communicated with vice president, Mr. David Close and highlighted the unfair treatment.

However, in less than three months of my complaints I was selected for a company wide reduction in force.

because of (state why defendant(s) discriminated against you, i.e. race, color religion, sex or national origin, etc.)

my race, Asian, in violation of Title VII of the Civil Rights Act of 1964, as amended and in retaliation due to my complaints.

I also believe that I have been discriminated against because of my age (55) in violation of the Age Discrimination.

5. Plaintiff timely filed a written complaint of discrimination with the Equal Employment Opportunity Commission (EEOC) and received a right to sue letter, a copy of which is attached. All conditions precedent to the institution of this lawsuit have been fulfilled.

Wherefore, Plaintiff prays for (state what relief is sought) Back Pay, Front Pay, Lost Benefits, Liquidated damages.

Court Cost, etc.

and such other relief as the Court would allow under Title VII of the Civil Rights Act of 1964.


Signature

3101 TOWNBLUFF DR. #322

Address

PLANO

City

TX 75075

State ZIP

713-835-8655

Telephone

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DISMISSAL AND NOTICE OF RIGHTS

To: Bo Zou
7972 S Sheridan Road. #314
#1602
Tulsa, OK 74133

From: Oklahoma City Area Office
215 Dean A. McGee Avenue
Suite 524
Oklahoma City, OK 73102



*On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR §1601.7(e))*

EEOC Charge No.	EEOC Representative	Telephone No.
564-2019-01736	Rafael Tirado, Investigator	(405) 231-5857

THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:

- The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.
- Your allegations did not involve a disability as defined by the Americans With Disabilities Act.
- The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.
- Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge
- The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.
- The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.
- Other (briefly state)

- NOTICE OF SUIT RIGHTS -
(See the additional information attached to this form.)

Title VII, the Americans with Disabilities Act, the Genetic Information Nondiscrimination Act, or the Age Discrimination in Employment Act: This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit must be filed WITHIN 90 DAYS of your receipt of this notice; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

Equal Pay Act (EPA): EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.

On behalf of the Commission

September 3, 2019

(Date Mailed)

Enclosures(s)

For: Holly Waldron Cole,
Area Office Director

cc: Becky Ford
Director
LINDE ENGINEERING
6100 S Yale Ave. #1200
Tulsa, OK 74136

Enclosure with EEOC
Form 161 (11/16)

INFORMATION RELATED TO FILING SUIT UNDER THE LAWS ENFORCED BY THE EEOC

*(This information relates to filing suit in Federal or State court under Federal law.
If you also plan to sue claiming violations of State law, please be aware that time limits and other
provisions of State law may be shorter or more limited than those described below.)*

PRIVATE SUIT RIGHTS -- Title VII of the Civil Rights Act, the Americans with Disabilities Act (ADA), the Genetic Information Nondiscrimination Act (GINA), or the Age Discrimination in Employment Act (ADEA):

In order to pursue this matter further, you must file a lawsuit against the respondent(s) named in the charge within 90 days of the date you receive this Notice. Therefore, you should keep a record of this date. Once this 90-day period is over, your right to sue based on the charge referred to in this Notice will be lost. If you intend to consult an attorney, you should do so promptly. Give your attorney a copy of this Notice, and its envelope, and tell him or her the date you received it. Furthermore, in order to avoid any question that you did not act in a timely manner, it is prudent that your suit be filed within 90 days of the date this Notice was mailed to you (as indicated where the Notice is signed) or the date of the postmark, if later.

Your lawsuit may be filed in U.S. District Court or a State court of competent jurisdiction. (Usually, the appropriate State court is the general civil trial court.) Whether you file in Federal or State court is a matter for you to decide after talking to your attorney. Filing this Notice is not enough. You must file a "complaint" that contains a short statement of the facts of your case which shows that you are entitled to relief. Courts often require that a copy of your charge must be attached to the complaint you file in court. If so, you should remove your birth date from the charge. Some courts will not accept your complaint where the charge includes a date of birth. Your suit may include any matter alleged in the charge or, to the extent permitted by court decisions, matters like or related to the matters alleged in the charge. Generally, suits are brought in the State where the alleged unlawful practice occurred, but in some cases can be brought where relevant employment records are kept, where the employment would have been, or where the respondent has its main office. If you have simple questions, you usually can get answers from the office of the clerk of the court where you are bringing suit, but do not expect that office to write your complaint or make legal strategy decisions for you.

PRIVATE SUIT RIGHTS -- Equal Pay Act (EPA):

EPA suits must be filed in court within 2 years (3 years for willful violations) of the alleged EPA underpayment: back pay due for violations that occurred more than 2 years (3 years) before you file suit may not be collectible. For example, if you were underpaid under the EPA for work performed from 7/1/08 to 12/1/08, you should file suit before 7/1/10 – not 12/1/10 – in order to recover unpaid wages due for July 2008. This time limit for filing an EPA suit is separate from the 90-day filing period under Title VII, the ADA, GINA or the ADEA referred to above. Therefore, if you also plan to sue under Title VII, the ADA, GINA or the ADEA, in addition to suing on the EPA claim, suit must be filed within 90 days of this Notice and within the 2- or 3-year EPA back pay recovery period.

ATTORNEY REPRESENTATION -- Title VII, the ADA or GINA:

If you cannot afford or have been unable to obtain a lawyer to represent you, the U.S. District Court having jurisdiction in your case may, in limited circumstances, assist you in obtaining a lawyer. Requests for such assistance must be made to the U.S. District Court in the form and manner it requires (you should be prepared to explain in detail your efforts to retain an attorney). Requests should be made well before the end of the 90-day period mentioned above, because such requests do not relieve you of the requirement to bring suit within 90 days.

ATTORNEY REFERRAL AND EEOC ASSISTANCE -- All Statutes:

You may contact the EEOC representative shown on your Notice if you need help in finding a lawyer or if you have any questions about your legal rights, including advice on which U.S. District Court can hear your case. If you need to inspect or obtain a copy of information in EEOC's file on the charge, please request it promptly in writing and provide your charge number (as shown on your Notice). While EEOC destroys charge files after a certain time, all charge files are kept for at least 6 months after our last action on the case. Therefore, if you file suit and want to review the charge file, please make your review request within 6 months of this Notice. (Before filing suit, any request should be made within the next 90 days.)

IF YOU FILE SUIT, PLEASE SEND A COPY OF YOUR COURT COMPLAINT TO THIS OFFICE.

EEOC Form 5 (11/09)

CHARGE OF DISCRIMINATION		Charge Presented To: <input type="checkbox"/> FEPA <input checked="" type="checkbox"/> EEOC	Agency(ies) Charge No(s): 564-2019-01736
This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.		Oklahoma Attorney General's Office, Office of CR Enforcement <small>State or local Agency, if any</small>	
Name (indicate Mr., Ms., Mrs.) Mr. Bo Zou		Home Phone (Incl. Area Code) (713) 835-8655	Date of Birth 1964
Street Address 3101 Townbluff Dr. #322, Plano, TX 75075		City, State and ZIP Code	
Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)			
Name LINDE ENGINEERING NORTH AMERICA INC.		No. Employees, Members 500 or More	Phone No. (Include Area Code) (918) 477-1200
Street Address 6100 S Yale Ave. #1200, Tulsa, OK 74136		City, State and ZIP Code	
DISCRIMINATION BASED ON (Check appropriate box(es).) <input checked="" type="checkbox"/> RACE <input type="checkbox"/> COLOR <input type="checkbox"/> SEX <input type="checkbox"/> RELIGION <input type="checkbox"/> NATIONAL ORIGIN <input checked="" type="checkbox"/> RETALIATION <input checked="" type="checkbox"/> AGE <input type="checkbox"/> DISABILITY <input type="checkbox"/> GENETIC INFORMATION <input type="checkbox"/> OTHER (Specify) _____			DATE(S) DISCRIMINATION TOOK PLACE Earliest 05-10-2019 Latest 08-07-2019 <input type="checkbox"/> CONTINUING ACTION
THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)): <p>I began my employment on 10/01/18 as a Piping Engineer. At all times I performed my duties in a satisfactory manner. During my employment I have been treated differently than other similarly situated White and younger employees. On 05/10/19 I communicated with vice president, Mr. David Close and highlighted the unfair treatment. However, the investigation was extremely unfair because neither management nor HR followed up with me and asked me to provide my supporting evidence before they made investigation conclusion, and nothing was done by Linde HQ integrity line after I provided my supporting evidence to Linde HQ integrity line.</p> <p>Subsequently, in less than three months of my complaints I was selected for a company wide reduction in force, that seems as employee ages were used as grounds for termination.</p> <p>I believe that I have been discriminated against because of my race, Asian, in violation of Title VII of the Civil Rights Act of 1964, as amended and in retaliation due to my complaints. I also believe that I have been discriminated against because of my age (55) in violation of the Age Discrimination in Employment Act of 1967.</p>			
I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.		NOTARY – When necessary for State and Local Agency Requirements	
I declare under penalty of perjury that the above is true and correct. 08/30/2019 _____ <i>Bo Zou</i> <small>Date</small> _____ <small>Charging Party Signature</small>		<small>I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.</small> <small>SIGNATURE OF COMPLAINANT</small> <small>SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE</small> <small>(month, day, year)</small>	

CP Enclosure with EEOC Form 5 (11/09)

PRIVACY ACT STATEMENT: Under the Privacy Act of 1974, Pub. Law 93-579, authority to request personal data and its uses are:

1. **FORM NUMBER/TITLE/DATE.** EEOC Form 5, Charge of Discrimination (11/09).
2. **AUTHORITY.** 42 U.S.C. 2000e-5(b), 29 U.S.C. 211, 29 U.S.C. 626, 42 U.S.C. 12117, 42 U.S.C. 2000ff-6.
3. **PRINCIPAL PURPOSES.** The purposes of a charge, taken on this form or otherwise reduced to writing (whether later recorded on this form or not) are, as applicable under the EEOC anti-discrimination statutes (EEOC statutes), to preserve private suit rights under the EEOC statutes, to invoke the EEOC's jurisdiction and, where dual-filing or referral arrangements exist, to begin state or local proceedings.
4. **ROUTINE USES.** This form is used to provide facts that may establish the existence of matters covered by the EEOC statutes (and as applicable, other federal, state or local laws). Information given will be used by staff to guide its mediation and investigation efforts and, as applicable, to determine, conciliate and litigate claims of unlawful discrimination. This form may be presented to or disclosed to other federal, state or local agencies as appropriate or necessary in carrying out EEOC's functions. A copy of this charge will ordinarily be sent to the respondent organization against which the charge is made.
5. **WHETHER DISCLOSURE IS MANDATORY; EFFECT OF NOT GIVING INFORMATION.** Charges must be reduced to writing and should identify the charging and responding parties and the actions or policies complained of. Without a written charge, EEOC will ordinarily not act on the complaint. Charges under Title VII, the ADA or GINA must be sworn to or affirmed (either by using this form or by presenting a notarized statement or unsworn declaration under penalty of perjury); charges under the ADEA should ordinarily be signed. Charges may be clarified or amplified later by amendment. It is not mandatory that this form be used to make a charge.

NOTICE OF RIGHT TO REQUEST SUBSTANTIAL WEIGHT REVIEW

Charges filed at a state or local Fair Employment Practices Agency (FEPA) that dual-files charges with EEOC will ordinarily be handled first by the FEPA. Some charges filed at EEOC may also be first handled by a FEPA under worksharing agreements. You will be told which agency will handle your charge. When the FEPA is the first to handle the charge, it will notify you of its final resolution of the matter. Then, if you wish EEOC to give Substantial Weight Review to the FEPA's final findings, you must ask us in writing to do so within 15 days of your receipt of its findings. Otherwise, we will ordinarily adopt the FEPA's finding and close our file on the charge.

NOTICE OF NON-RETALIATION REQUIREMENTS

Please notify EEOC or the state or local agency where you filed your charge if **retaliation is taken against you or others** who oppose discrimination or cooperate in any investigation or lawsuit concerning this charge. Under Section 704(a) of Title VII, Section 4(d) of the ADEA, Section 503(a) of the ADA and Section 207(f) of GINA, it is unlawful for an *employer* to discriminate against present or former employees or job applicants, for an *employment agency* to discriminate against anyone, or for a *union* to discriminate against its members or membership applicants, because they have opposed any practice made unlawful by the statutes, or because they have made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under the laws. The Equal Pay Act has similar provisions and Section 503(b) of the ADA prohibits coercion, intimidation, threats or interference with anyone for exercising or enjoying, or aiding or encouraging others in their exercise or enjoyment of, rights under the Act.

Original Complaint letter (Submitted to David Close)

on 05/10/2019

David,

I write you the following issues I saw and experienced since I joined LENA Tulsa last October, and hope that Linde could pay attention to the issues and advance toward great goals.

1. I don't think that engineering manager Jerry Gump is fair in his job. His ethics is in question, either. The reasons are as following:

- a. In LENA's Crestwood and XTO project, the piping design engineer Kenney Sharp, who is responsible for materials and project piping specs, made a very big mistake. All the ball valves were designed with short pattern type. However, the valves information was issued to procurement department with long pattern ball valves. After the long pattern ball valves were purchased and shipped to Linde, and all the piping isometric drawings were issued to the client. Linde found the mistake at that time. Linde must re-update piping isometric drawings and re-issue the isometric drawings to the client due to no choice in replacing long pattern ball valves with short pattern valves. It not only costed piping designers in LENA Tulsa and Houston a lot of labors but also let LENA lose trust from the client. However, Jerry Gump and former head of operation Art Thompson never punished Kenney Sharp, but rewarded Kenney Sharp on April 25, 2019. Jerry Gump is unfair in his job.
- b. I finished LENA's piping technical specs (see attached e-mail and some evidences) on Feb. 21, 2019 based on LENA's requirements for GSP (stock plant) project. However, Kenny Sharp wanted to hide or cover his mistake in cryogenic ball valve seat materials and other materials existing in Crestwood and XTO project, and misguided, lied and cheated manager, piping group lead and other people because Kenny Sharp never wanted to correct the mistake in Crestwood and XTO piping specs. I told some people in bi-weekly meeting on March 13, 2019 that cryogenic ball valve seat material RTFE is wrong for cryogenic service and provided some evidences to Jerry Gump on March 14, 2019. Jerry Gump finally accepted my suggestions and commanded Kenny Sharp to combine my suggestions into XTO piping specs on March 27, 2019. However, Kenny Sharp only took some modification, and told me that Martin Dryden said that all the modifications would be done for later projects, not this time. But, it's not true. On April 17, 2019, Kenny Sharp used Martin Dryden's name and his name to issue stock plant piping specs, **whose most modifications for cryogenic valves come from my finished technical specs on Feb. 21, 2019.** Unfortunately, there is still mistake in the stock plant piping specs issued by Kenny Sharp because Kenny Sharp only took most of specs I finished on Feb. 21, 2019. On April 29, 2019, Kenny Sharp let me copy XTO specs as Husky 1 & 2 specs. I found that there is mistake in XTO specs. I refused to put my name on Husky 1 & 2. Kenny Sharp agreed to modify some mistake but still keep some that no big impact to project. On April 18, 2019, I told procurement manager Randy Roger that Kenny Sharp's issues when we talked about ball valves. However, Randy Roger immediately reported to Art Thompson. And then, Art Thompson told Jerry Gump. Jerry Gump still rewarded Kenny Sharp in company employee party on April 25, 2019. I think that Jerry Gump challenged Linde's fairness using his manager power. Kenny Sharp made big mistake and purposed not to correct the mistake is not punished but rewarding. It really happened in Linde today. How could Kenny Sharp misguide, lie even cheat other people, and never take any responsibility for his mistake? The reason is that Jerry Gump supports him. So, Kenny Sharp can do everything as he wants to do, and ignore any LENA's requirements and regulations. Where is Jerry Gump's fairness and ethics? I think that Jerry Gump is in professional misconduct.

(Note: I can provide all the evidences for Kenny Sharp's lie and cheat.)

- c. Jerry Gump and Art Thompson promoted Adam Milad with abnormal way. Adam Milad couldn't do anything in equipment calculation, data sheets and drawing review as an equipment engineer in Linde. However, he was promoted as Engineering manager I by Jerry Gump and Art Thompson this year. Jerry Gump is the operator of promotion. Where is Jerry's fairness? To my knowledge, Adam Milad couldn't do anything in Honeywell (UOP), either. He was fired by Honeywell for his bad performance and only worked four and half a days in

one week as he is in Linde. However, he helped vendor BWFS to bid for Linde's project. BWFS couldn't get any order from Crestwood project, and only one equipment order from XTO project. But, BWFS got all equipment orders for Linde's stock plant. Nobody could believe the fact. I doubt that Adam Milad leaked other vendor's bid information to BWFS because Adam Milad has been having very close relationship with BWFS since he was in Honeywell, and Adam Milad is the project manager of stock plant. Also, BWFS submitted their bid very late compared with the other vendors. When Adam Milad was in Honeywell, BWFS got a lot of order from Honeywell, too. However, when Adam Milad was fired from Honeywell, BWFS almost couldn't get any order.

(Note: I can bring witness to confirm Adam Milad's performance in Honeywell. Also, we can easily verify Adam Milad's performance as an equipment engineer in Linde)

- d. Jerry Gump also let senior system engineer Bob Wang monitor me in order to know about what my said. I finally found Bob Wang's behaviors and act. Now, Bob Wang is blackening and putting dirty on President Carlos Conerly. He said that Art Thompson shouldn't be fired because Art Thompson had worked in Linde more than 20 years, and the e-mail sent to all the employees in LENA Tulsa by Carlos Conerly on May 2, 2019 is not good. He told another employee and me that Carlos Conerly ever worked at Exterran. However, Carlos Conerly was ill for long time at Exterran. Also, Carlos Conerly never has any college degree. His meaning is that Carlos Conerly is not qualified for LENA Tulsa President position. I rebut him that Bill Gates doesn't have any college degree, either. However, Bill Gates is a great Founder and leader for Microsoft. Carlos Conerly has experiences in Exterran, and only people from other companies could see what problems LENA Tulsa has. Art Thompson rarely came to 12 floors to supervise engineer job and solve engineering issues. Art Thompson only depended on Jerry Gump and Randy Roger. However, I don't think that they are competent in his jobs (At least, I think so.). I believe Carlos Conerly could make a big change for LENA Tulsa. To my knowledge, Bob Wang couldn't do good work in Crestwood project. The client ordered Bob Wang to carry out and finish any modification provided by the Client for P&ID without his any idea or consent now. Otherwise, the client gives Linde warning. The client insulted him, and also indirectly insulted Linde.

(Note: Another employee can confirm Bob Wang's comment on Carlos Conerly)

e. About my issues:

Supporting my charge of discrimination on Race and age. Jerry Gump cancelled my some training and doesn't give me the job, I should have with my job duty and job title, to do after I joined LENA Tulsa only one and half a week. Also, I was excluded all the project meetings only as optional choice. I was excluded Linde's specs meeting, which is joined by some employees including all LENA locations. I was permitted to join the meeting on May 02, 2019. It's very coincidental that Art Thompson was fired only two days. However, the meeting has been started since Feb. 28, 2019. The meeting on May 02, 2019 is the last meeting for Linde's specs in the first stage. Actually, doing specs is my work duty. However, I was prohibited to join the meeting. I want to know what is the reason. I asked HR about my job issues on May 06, 2019. HR supervisor Aaron Watson told me that I have no any problem from HR side. Based on my speculation, the only reason is that BWFS involved in my job issues because only Adam Milad and Jerry Gump knew that I ever worked in BWFS and had some conflicts with Carlos Hernandez in BWFS because Adam Milad has very close relationship with Carlos Hernandez. From Adam Milad was promoted by Jerry Gump and Art Thompson, and I wasn't give the job to do, I think that Jerry Gump has very close relationship with BWFS, too.

I hope that LENA Tulsa can advance greatly under President Carlos Conerly's leadership. Thank you for your attention.

Sincerely,



George Zou

Attachment 1:

supporting my complaint to Linde management and my charge
against Linde's
discrimination on
my race and age.

found the mistakes in Kenny Sharp's XTO project specs on Jan. 14, 2019. However, my good work was ignored and mistakes were kept in these specs and later project specs.

George Zou

Subject: Valve selection choices, industry standards discussion
Location: LBPP - 12 North Conference Room/LBPP - Tulsa

Start: Tue 2/19/2019 10:00 AM
End: Tue 2/19/2019 11:00 AM

Recurrence: (none)

Meeting Status: Accepted

Organizer: Randy Finfrock
Required Attendees: Kenny Sharp; Stewart Schmitt; George Zou; Dustin Duncan; Bob Wang; Amol Sawant; Trey Hamra (thamra@ipipes.com); Dennis Johnson (djohnson@ipipes.com)

Vendor

Linde invited valve vendor to come to consult PCTFE as ball valve seat. And, valve vendor confirmed my opinions are correct. So, I issued the updated technical specs on Feb. 21, 2019.

George Zou

Subject: Jatasco - Valve Selection choices, industry standards discussion
Location: LBPP - 12 Northeast Conference Room/LBPP - Tulsa

Start: Tue 2/19/2019 2:00 PM
End: Tue 2/19/2019 3:00 PM

Recurrence: (none)

Meeting Status: Accepted

Organizer: Randy Finfrock
Required Attendees: Kenny Sharp; Stewart Schmitt; George Zou; Dustin Duncan; Bob Wang; Amol Sawant; chuck@jatasco.com

Linde invited valve vendor to come to consult PCTFE as ball valve seat. And, valve vendor confirmed my opinions are correct. So, I issued the update of technical specs on Feb. 21, 2019.

Another vendor

George Zou

Subject: WOLSELEY visit,- Valve selection choices, industry standards discussion
Location: LBPP - 12 Northeast Conference Room/LBPP - Tulsa

Start: Thu 2/21/2019 2:00 PM
End: Thu 2/21/2019 3:00 PM

Recurrence: (none)

Meeting Status: Accepted

Organizer: Randy Finfrock
Required Attendees: Kenny Sharp; Stewart Schmitt; George Zou; Dustin Duncan; Bob Wang; Amol Sawant; Phillip Martin (phillip.martin@wolseleyind.com); Kody.Josserand@wolseleyind.com

Linde invited valve vendor to come to consult PCTFE as ball valve seat. And vendor confirmed my opinions are correct. So, I issued the updated technical specs on Feb. 21, 2019.

Another vendor

George Zou

From: George Zou
Sent: Thursday, February 21, 2019 5:15 PM
To: Jerry Gump
Cc: Kenny Sharp; Eli McDaniel; Randy Finfrock; Randy Rogers; Art Thompson
Subject: T-specs ready for review
Attachments: &AF 000 L-SG T1300.doc; &AF 000 L-SG T1311.doc; &AF 000 L-SG T-A10.doc; &AF 000 L-SG T-A40.doc; &AF 000 L-SG T-A90.doc; &AF 000 L-SG T-B10.doc; &AF 000 L-SG T-B40.doc; &AF 000 L-SG T-B50.doc; &AF 000 L-SG T-B60.doc; &AF 000 L-SG T-C10.doc; &AF 000 L-SG T-C40.doc; &AF 000 L-SG T-C50.doc; &AF 000 L-SG T-C60.doc; &AF 000 L-SG T-I11.doc

Jerry,

I have finished T-specs update. Attached are the priority T-specs for standard plant for Kenny, Eli and Randy Finfrock's review. Also, I give the file link as following.

\\\D6S22.le.grp\\departments\\Engr_PL\\Piping Engineering\\LPP Tech Specifications - Piping\\LENA-Tulsa

StdPipnSpecs\\LENA_T_Specs\\Piping Class 12-04-2018\\T-Specs\\T-Spec updated

There are two folder there.

Other T-Specs	2/21/2019 8:26 AM	File folder
T-Specs for STD Plant	2/21/2019 10:21 AM	File folder

The T-specs update includes three major modifications listed as follows:

1. The seats and seals materials of ALL ball valves and 3"-6" butterfly valves are wrongly applied in Cryogenic services in previous T-specs edition. RTFE seats couldn't be used below -50°F. So, the purchase requisitions for Crestwood and XTO cryogenic valves all are wrong. Now, I got information from Randy that one Italia valve vendor OMB followed Linde's valve requisition to provide cryogenic valves. If so, these cryogenic ball valves shall fail in the future. However, this is not procurement department mistaken, but T-specs wrong.
2. Ball valve tagging system is modified, especially Fire safe seats and seals are re-specified. Max. 400°F was specified for all ball valve in previous T-specs edition. Now, it is specified above 400°F in compliance with fire safe definition and design.
3. In T-C40 spec. TFE seats that some ball valves use are changed to RTFE seats because of Class 600.

Kenny, Eli and Randy Finfrock could start to review these specs. After that, we could discuss the T-specs and issue these specs finally.

Thanks,

Modification suggestion 2

Sincerely,
George

I finished and updated Linde's technical specs on Feb. 21, 2019, and did good work in technical specs for Linde's GSP plant and future projects. But my work is ignored and some mistakes were still kept in later project specs by Kenny Sharp. Especially, My modification suggestion 2 is ignored in Crestwood, XTO, GSP plant and Husky 1 & 2 projects until I was in charge of LR6400 and LRSV 200 projects in July, 2019.

George Zou

Subject:	LENA-Tulsa Valve Tagging Specification Changes
Location:	LBPP - 12 Northeast Conference Room/LBPP - Tulsa
Start:	Wed 3/6/2019 9:00 AM
End:	Wed 3/6/2019 10:00 AM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Kenny Sharp
Required Attendees:	George Zou; Jerry Gump; Dustin Duncan; Eli McDaniel; Randy Finfrock; Randy Rogers; Andrew Connor; Stewart Schmitt; Bob Wang; Grant McCool; Nancy Hubbard; Adam Milad; Michelle Church

Linde discussed the issue in valve system on March 6, 2109. However, no any changes happened since then because Kenny Sharp controlled it until I was in charge of LR6400 and LRSV200 in July, 2019.

All,

The Piping Engineering folks are in the process of making a number of changes to the LENA-Tulsa valve tagging T-Spec (particularly to the ball valve tagging system, pp 11-13), and we realize that it would be advantageous for y'all to be informed and make comments to the document being rolled-out.

Please refer to the attachments prior to the meeting, as we will likely need to cover plenty of ground in order to make the necessary changes in a timely fashion. The 2 attachments are the approaches taken by George Zou and myself to incorporate the key developments moving forward (for discussion regarding the changes to the ball valve tagging system). If y'all have any questions, please let me know.

Thank you kindly,
Kenny Sharp

Meeting Outline:

- Ball Valve Tagging System
 - End Connections Digit Changes/Considerations
 - Trim Digit Changes/Considerations
 - Temperature Tolerance Distinctions
 - "Fire-Safe" Definition/Update
 - Short/Long Pattern Notation
- Any Other Valve Tagging Systems

George Zou

Subject: Cryogenic Valve issue for Crestwod and XTO
Location: LBPP - 12 Northeast Conference Room/LBPP - Tulsa

Start: Thu 3/14/2019 11:00 AM
End: Thu 3/14/2019 11:30 AM
Show Time As: Tentative

Recurrence: (none)

Meeting Status: Not yet responded

Organizer: George Zou
Required Attendees: Jerry Gump; Kenny Sharp; Eli McDaniel
Resources: LBPP - 12 Northeast Conference Room/LBPP - Tulsa

On March 14, 2019, I told Jerry Gump, Sharp Kenny and Eli McDaniel RTFE as valve seat for cryogenic service would fail. However, they didn't take my suggestions until I recall them on March 27, 2019 meeting. See next page.

Shop = socketweld
Field construction = threaded
A10 versus AM
↳ modify default to SW

Linde Tulsa versus LEHQ spec offerings
LEHQ ≠ fluid codes (ie. natural gas), ETC

Δ use LENATulsa Tier 1 (12 specs) for Standard Pla

Specs to use: XTB Specs w/add'l refinements

This occurred on
March 27, 2019. It
passed more than
one month after I
finished the
technical specs.

However, Kenny
never used my
updated technical
specs and kept
mistakes in later
project specs.

↳ RSP Stock Plant
Move forward with
XTB Specs as-is

B6 R5F - RTFE "S"
ANGE VALUE TAG IN MODE
↳ B6 QDFE - PCTFE (REL F) "Q"

This is one of Kenny lied and cheated evidences. Kenny told all meeting participants that for RTFE used lower than -50 Deg.F, he was waiting for valve vendor's confirmation and response. Actually, valve vendor came to Linde on Feb. 19 and 21, 2019 (see this evidence page 1-3), and confirmed that RTFE could NOT be used lower than -50 Deg.F. My updated technical specs finished on Feb. 21, 2019 were ignored until this meeting. I rebut Kenny and told all participants that valve vendor had came in Feb. and confirmed RTFE could not be used lower than -50 Deg.F. So, Jerry Gump asked me to provide paper evidences to demonstrate RTFE couldn't be used lower than -50 Deg.F. After I provided the technical evidences for Jerry Gump, Jerry Gump had no choice to ask Kenny to change RTFE to PCTFE in technical specs.

T Spec - RTFE for <-50°F in spec - vendor response
- ~~Specifications~~ ^{Wait for vendor response}
- add THIRD values for instruments (PDS)

March 27, 2019 Bi-weekly Piping ENGR Meeting

LINDE ENGINEERING NORTH AMERICA, INC.



PIPING SPECIFICATION

SERVICE: 150# SULFINOL AND AMINE SYSTEMS
PIPING DESIGN AND MATERIAL SPECIFICATIONDoc. No.: &AFA5D2 000 R-SS A20
Issue: 01 Page 8 of 10

These mistakes were ignored and kept in all specs made by Kenny until I was in charge of LR 6400 project in July, 2019.

2" thru 6"	B63A5R	Class 600 threaded ball valve w/ 316 SS ball (max. 400°F)
	B63A6R	Class 600 threaded ball valve w/ 316 SS ball (max. 400°F, fire safe)
8"	B33P2RL	Class 150 flanged ball valve (max. 400°F)
	B33P3RL	Class 150 flanged ball valve (max. 400°F, fire safe)
8"	B33P2RA	Class 150 flanged ball valve (max. 400°F) Gear operated
	B33P3RA	Class 150 flanged ball valve (max. 400°F, fire safe) Gear operated
10" thru 24"	B33Q2RA	Class 150 flanged trunnion ball valve (max. 400°F) Gear Operator

Ball - (Full Port – where required)

1-1/2" and smaller	B63A1F	Class 600 threaded ball valve (max. 200°F)
	B63A2F	Class 600 threaded ball valve (max. 400°F)
	B63A3F	Class 600 threaded ball valve (max. 400°F, fire safe)
1-1/2" and smaller	B63A4F	Class 600 threaded ball valve w/ 316 SS ball (max. 200°F)
	B63A5F	Class 600 threaded ball valve w/ 316 SS ball (max. 400°F)
	B63A6F	Class 600 threaded ball valve w/ 316 SS ball (max. 400°F, fire safe)
2" thru 6"	B33P2FL	Class 150 flanged ball valve (max. 400°F)
	B33P3FL	Class 150 flanged ball valve (max. 400°F, fire safe)
8"	B33P2FA	Class 150 flanged ball Valve (max. 400°F) Gear operated
	B33P3FA	Class 150 flanged ball valve (max. 400°F fire safe) Gear operated
10" thru 24"	B33Q2FA	Class 150 flanged trunnion ball valve (max. 400°F) Gear Operator

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LINDE ENGINEERING NORTH AMERICA, INC.

PIPING SPECIFICATION

Customer: XTO Energy

Job No.

A5D2

Plant: Husky 1 Cryo Plant

Doc. No.

8AFA5D2 000 R-SS A10

Location: Eddy County, NM

Issue

01

**Service: 150# GENERAL PROCESS AND UTILITY
PIPING DESIGN AND MATERIAL SPECIFICATION**

ISSUE	STATUS	DATE	DESCRIPTION	BY	CHKD	APPR
01	IFF	05/01/19	Issued For Fabrication			
<div style="border: 1px solid black; padding: 10px;"> <p>I refused to put my name here. Also, I reported to Jerry Gump that there are some mistakes that Kenny Sharp refused to change them. Jerry Gump answered me that if I didn't sign my name here, also let CHKD and APPR empty.</p> </div>						
<div style="border: 1px solid black; padding: 10px;"> <p>Yellow color is marked by Kenny Sharp and words written by him, too. He asked me to put my name in BY area, CHKD in his name, APPR in project manager's name. However, I refused to put my name on it because of mistakes still existing in specs.</p> </div>						
ATTACHMENTS:						
SPEC. NO.	DESCRIPTION	NO. OF PAGES	ISSUE	ISSUE DATE		

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Form No. QA-F063 r001 (2010/04/15)

LINDE ENGINEERING NORTH AMERICA, INC.



PIPING SPECIFICATION

SERVICE:

**150# GENERAL PROCESS AND UTILITY
PIPING DESIGN AND MATERIAL SPECIFICATION**

Doc. No.: &AFA5D2-000-RSS-A10
Issue: 01 Page 10 of 10

&AF 000 L SG T-1310, "Acceptable Threaded Pipe Sealants". Tape is not acceptable under any circumstances.

2. All welds shall be made as defined in the Welding Procedure Specifications.

3. Stress Relief ~~per paragraph 331 of ASME B31.3 - 2014 and later revision~~

For P1 material, Stress Relief (PWHT) is required. If the following conditions are documented, then exemption from Stress Relief (PWHT) is permitted

- a) Pipe wall thickness is $\leq 3/16"$,
- b) Pipe wall thickness is between $3/16"$ & $1"$ and has multilayer welds
- c) Pipe wall thickness is $> 1"$ and if pre-heat temperature of 200°F is maintained and multiple layer welds are used. The approved WPS maintains a minimum 200°F (95°C) pre-heat temperature,
- d) The weld is a single pass weld and the WPS is qualified with thickness using a single pass weld with $\pm 10\%$ Heat Input and

4. Examination and inspection of piping and weldments shall be in accordance with ~~ASME B31.3~~ ²⁰¹⁶ Chapter VI.

5. For Carbon Steel piping and fittings thicker than $1/2"$, impact testing is required. (-) 20 Deg. F. per ASME B31.3 para 302.2.1 and 323.2. This depends upon pipe thickness and pipe stresses. Piping engineer will determine if impact testing is required.

6. Impact testing is required for A516 Gr.70N plate thickness greater than $1.25"$ for min. design temperature of -20°F and lower per Fig. 323.2.2A of ASME B31.3. ~~2016~~

The yellow sentence and red word "2016" were marked by Kenny Sharp. Kenny Sharp must (had to) change the mistake "2014" to "2016" on Husky 1 & 2 piping specs on May 1, 2019 because I refused to put my name on the specs and reported to the manager Jerry Gump. But, Kenny Sharp didn't change other mistakes on specs. So, I finally didn't sign my name on the specs. Other mistakes still exist in Husky 1 & 2 specs. However, my warning and report was ignored by the manager Jerry Gump and Kenny Sharp.

END OF SPECIFICATION

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Form No. QA-F063 r001 (2010/04/15)

Attachment 2.

George Zou

Linde just started LRSV 200 project in the middle of July, 2019. LR6400 project doesn't start yet. I was in charge of two projects. However, I was laid off quickly. My jobs were taken by young WHITE engineers. The file supports my charge of race, age and retaliation discrimination.

From: Jerry Gump
Sent: Friday, July 26, 2019 12:53 PM
To: George Zou
Cc: Eli McDaniel
Subject: RE: Path Forward to Issuing Pipe Specifications and TSpecs

George –

You are the lead for the LR6400 and LRSV200 with your name on the specification. Thank you for asking for a clarification.

Best Regards,

Jerry Gump, P.E.
Manager of Engineering - Natural Gas

Linde Engineering North America Inc.
6100 South Yale Avenue, Suite 1200, Tulsa, Oklahoma 74136, USA
Phone: +1.918.477.1143, Cell: +1.469.343.9090
jerry.gump@linde.com, www.leanericas.com

From: George Zou
Sent: Friday, July 26, 2019 9:46 AM
To: Jerry Gump <Jerry.Gump@linde.com>
Cc: David Close <david.close@linde.com>; Kathryn Green <kathryn.green@linde.com>; Brett Hughes <Brett.Hughes@linde.com>; Eli McDaniel <Eli.McDaniel@linde.com>
Subject: RE: Path Forward to Issuing Pipe Specifications and TSpecs

Jerry,

For LR6400 and LRSV200 project specification, two persons' names couldn't be put on the specification at the same time, i.e. the job could only be done by one person. Please advise.

Thanks,

Sincerely,
George

From: Jerry Gump
Sent: Tuesday, July 23, 2019 4:32 PM
To: Eli McDaniel <Eli.McDaniel@linde.com>; George Zou <George.Zou@linde.com>; Kenny Sharp <kenny.sharp@linde.com>; Martin Dryden <Martin.Dryden@linde.com>; Dustin Duncan <dustin.duncan@linde.com>
Cc: David Close <david.close@linde.com>; Kathryn Green <kathryn.green@linde.com>; Brett Hughes <Brett.Hughes@linde.com>
Subject: Path Forward to Issuing Pipe Specifications and TSpecs

All –

Steps to issuing Pipe Specifications for LR6400 & LRSV200 and a set of Standard Plant Pipe Specification TSpecs. The pipe specifications for LR6400 and LRSV200 are currently being reviewed. Revised TSpecs will be issued after incorporation of the changes in B31.3 2018 edition (not yet published).

Step	Project	Issued IFF	Responsibility	Approval	Comments
Complete	Cowboy 01	X	Kenny	Martin review	As I mentioned in my complaint letter and Attachment 1, there are mistakes existing in these specs. I refused to sign my name on Husky 1 & 2 specs.
Complete	Husky 1 & 2	X	Kenny	Martin review	approve
Complete	GSP 200 Stock Plant	X	Kenny		Martin review and Project Engineer approve
1	LR6400		George/Kenny		Martin review and Project Engineer approve
	LRSV200				
2	TSpecs		George		Martin review and Eli approve pipe specifications Gregg Watson and Jerry Gump approve TSpec

Best Regards,

Jerry Gump, P.E.
Manager of Engineering - Natural Gas

Linde Engineering North America Inc.
6100 South Yale Avenue, Suite 1200, Tulsa, Oklahoma 74136, USA
Phone: +1.918.477.1143, Cell: +1.469.343.9090
Jerry.gump@linde.com, www.leanericas.com

See previous page email, I never let Kenny involve in the job.

Attachment 3: Supplement Evidence

1. Kenny Sharps is a young American WHITE engineer and has no experiences in materials, valves and piping specifications, etc. The manager Jerry Gump let Kenny do my jobs and take my job duties. Kenny could only copy the original documents. And, Kenny didn't know whether there were any mistakes in original documents. So, he made some big mistakes and made Linde lose money. My complaint letter and Attachment 1 show that I did an excellent work and Kenny made some big mistakes and lied and cheated everyone to hide and cover his mistakes. But, the manager ignored my excellent work, laid me off and let young American WHITE engineer do my job capabilities. So, I believed that I was discriminated by the manager because of my race and age.
2. I was excluded all the project meetings. Also, I was excluded Linde's specs meeting, which is joined by some employees including all Linde Engineering North America locations. As a piping engineer, it's my job responsibilities to join these meetings. However, the manager let young American engineer replace me to attend the meetings. I believed that I was discriminated by the manager because of my race and age.
3. The manager Jerry Gump didn't let me take equipment engineer job duties (I have capability as an equipment engineer) and hired a young American WHITE engineer in April, 2019. He intentionally made me be laid off. I believe that I was discriminated by race and age.
4. I was excluded a piping meeting on 07/30/2019 or 07/31/2019. It means that the manager prepared to lay me off.
5. On 08/21/2019, Linde started to look for mechanical engineer intern and electrical engineer intern (only two weeks after lay-off). It means that Linde's lay-off targeted on specific group people, old workers, and used new young workers to replace old workers.
6. The manager ever insulted me faced to a project manager, Kathryn Green, and an Indian guy (estimated 32--35 years old), who is on phone in Houston, TX. in Jan. 2019, the manager Jerry Gump let me join a phone meeting with that Indian guy in Houston and Kathryn Green. Jerry Gump told that Indian guy with a contempt tone that "do you need George to make piping stress analysis model for you?" That Indian guy immediately laughed in phone, and Kathryn Green saw my face quickly.
7. I was retaliated by the manager after I complained him on 05/10/2019. He gave me a lot of works to do and less time to finish. The manager pushed me very hard. Also, he asked a young engineer to check my work reaching up to the degree of nitpicking. The big problem is that the industrial process fluid Linde handles is NATURAL GAS LIQUIDS (NGL), which is combustible and explosive. The manager retaliated me and laid me off, let unexperienced and unqualified young American engineer do my job. The manager made public interest and safety exposed to dangerous situation because of NGL properties. The burning and explosion caused by NGL leak will possibly injury and kill plant workers and make public disaster happen.
8. I was treated differently in Linde. When I requested Linde to fix the locks of the table drawers in July, 2019. Linde never cared my requests, and never fixed the drawer locks.
9. I worked in a hostile environment, and was isolated and discriminated on my race and retaliated by the manager Jerry Gump. In Linde-Tulsa, everybody except me in his/her birthday got colleagues' best wish on birthday card and even some employees got lunch party to celebrate their birthdays. However, on my birthday (07/31/2019), I didn't get any best wish and a birthday card. Everything was silent on 07/31/2019.

Notes for Engineering Department Lay-off list:

1. All employees in engineering department are marked in rectangle.
2. That an employee is not noted or marked as engineer means that he is not an engineer.

EXHIBIT A

OLDER WORKERS BENEFIT PROTECTION ACT NOTICE AND DISCLOSURE

LENA is providing Employee and other eligible employees with information showing the number of employees who are eligible and ineligible for the Program described in this Agreement, by age and job title. Employees are "eligible" for the Program if LENA selected them for termination *and* they have been asked to execute a waiver and release of claims in connection with the Program. Employees listed as "ineligible" are ineligible either because they will not be terminated, or because they have not been asked to execute a waiver and release of claims in connection with the Program.

This employment termination program is applicable to employees assigned to LENA's Natural Gas Engineering, Process Engineering, Project Management and Procurement Groups who were selected for termination based on job elimination, job function, critical skills, performance, abilities, effectiveness, versatility, value to continuing business operations, uniqueness, and reassignment potential. LENA is providing information to Employee regarding the class, unit, or group considered in the selection decision for the Program.

employees laid off

Job Title	Age	Eligible	Ineligible
Civil/ Structural Designer III	70	X	
Civil/ Structural Team Lead	58		X
Civil/ Structural Team Lead	69	X	
Civil/ Structural Team Lead	54		X
Document Control Specialist	38		X
Document Control Specialist	66		X
Electrical Engineer	53		X
Engineering Group Leader	78	X	
Engineering Manager	45	X	
Engineering Manager I	34		X
Engineering Manager III	45		X
Equipment Senior Designer	55		X
Executive Administrative Assistant	46		X
Expeditor	43		X
General Drafter	37		X
Group Lead- Natural Gas Design	62		X
I&C Senior Team Lead	63		X
Instrument & Electrical Designer	66	X	
Instrument/Electrical/Controls Team Lead	64		X
Instrumentation & Controls Engineer	41		X
Lead Rotating Equipment Engineer	75	X	
Manager of Natural Gas Engineering	61		X
Manager of Procurement	47	X	
Material Control Coordinator	37		X
Material Control Coordinator	46	X	
Piping Design Engineer	36		X
Piping Design Engineer	36		X

LENA Separation Agreement | Page 8 of 9

Two young engineers were retained.

The younger coordinator was retained.

This is me,
Engineer
laid off--3

Job Title	Age	Eligible	Ineligible
Piping Designer II	47	X	
Piping Designer III	52	X	
Piping Engineer	55	X	
Piping Senior Designer	45		X
Piping Senior Designer	61		X
Principal Process Engineer	58		X
Project Administrative Assistant	42		X
Project Buyer	45		X
Project Buyer II	62	X	
Project Buyer II	38		X
Project Manager	66	X	
Project Manager I	34		X
Project Procurement Manager, Natural Gas	27		X
Proposal Development Admin Assistant	34	X	
Proposal Manager	36		X
Proposal Manager	43		X
Proposal Manager II	34		X
Reproduction Clerk	60	X	
Rotating Equipment Engineer	42		X
Senior Civil/Structural Eng	71		X
Senior Proc Control Eng	47	X	
Senior Process Engineer	41	X	
Senior Static Equipment Engineer	56		X
Sr Electrical Engineer	76	X	
Sr. Civil/Structural Engineer	38		X
Static Equipment Engineer III	34		X
Team Leader Piping Design	61		X

Engineer laid
off--5
(older engineer)

JFH-JFJ
FILED

JUL 21 2020

Mark C. McCartt, Clerk
U.S. DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

Bo Zou,

§

Plaintiff

§

vs.

§

Linde Engineering North America, Inc. ,

§

Defendant.

§

§

NO. 4:19-CV-00554-JFH-JFJ

PLAINTIFF'S MOTION FOR OBJECTING TO MAGISTRATE JUDGE'S RULINGS;
AND MOTION TO REQUEST THE DISTRICT JUDGE TO RULE
PURSUANT TO FEDERAL RULES OF CIVIL PROCEDURE

Pro Se Plaintiff Bo Zou files the motion for objecting to Magistrate Judge's rulings (Dkt. No. 70) issued on July 9, 2020. In the order, Magistrate Judge could NOT provide any facts, grounds, statutes and authorities to support Magistrate Judge's rulings. Defendant's perjury, falsified documents, contempt of the Court, copyright infringement and providing "made up" allegation, lies to and misleading the Court, and other misconducts, etc. are intentionally overlooked, ignored and never considered by Magistrate Judge even if Plaintiff has clearly shown the Court and provided all facts and evidence for the Court. Magistrate Judge even refused Plaintiff's requests for an oral hearing, i.e. refused to listen to Plaintiff's requests to show and present Defendant's perjury, falsified documents, contempt of the Court, copyright infringement and providing "made up" allegation, lies to and misleading the Court, and other misconducts, etc. to the Court. **Magistrate Judge's rulings are clearly erroneous and contrary to law.** Plaintiff requests the District Judge to rule based on all evidence and documents provided by Plaintiff pursuant to Fed. R. Civ. P. 72(a). "*The district judge in the case must consider timely objections and modify or set aside any part of the order that is clearly erroneous or is contrary to law.*"

I. Background

1. Plaintiff filed the discrimination case to allege that Defendant discriminated and retaliated Plaintiff based on Plaintiff's race and age on October 18, 2019.
2. Magistrate Judge issued an order (Dkt. No. 37) on Plaintiff's motion to compel written discovery responses from Defendant (Dkt. Nos. 22, 24, 30, 31); Plaintiff's motion to compel responses to a third-party subpoena issued to Alex Alexandrov of ICC (Dkt. 25 at 9); Defendant's motion to quash the subpoena to ICC and motion for Sanctions or a protective order (Dkt. Nos. 19, 20) on May 19, 2020.
3. Based on Magistrate Judge's rulings, which are clearly erroneous and contrary to law in the order (Dkt. No. 37), Plaintiff filed Plaintiff's motion for reconsidering Plaintiff's motion to compel written discovery responses from Defendant (Dkt. Nos. 22, 24, 30, 31); Plaintiff's motion to compel responses to a third-party subpoena issued to Alex Alexandrov of ICC (Dkt. 25 at 9); Defendant's motion to quash the subpoena to ICC and motion for Sanctions or a protective order (Dkt. Nos. 19, 20) on May 26, 2020. See Dkt. No. 38.
4. On July 9, 2020, Magistrate Judge ruled Plaintiff's motion for reconsidering (Dkt. No. 38), Plaintiff's motion for imposing sanctions on Defendant's copyright infringement and providing "*made up*" evidence and allegations (Dkt. No. 34), Plaintiff's motions for hearing and translator (Dkt. No. 45), Plaintiff's Motion to Strike and for Sanctions (Dkt. No. 59); Defendant's Motion for Entry of Protective Order (Dkt. No. 44), and Defendant's Motion for Extension of Time to Comply with Order (Dkt. No. 50) without a hearing. Also, Magistrate Judge refused to consider all the evidence and documents submitted to the Court by Plaintiff. Defendant's perjury, falsified documents, contempt of the Court, copyright infringement and providing "*made up*" allegation, lies to and misleading to the Court, and other misconducts, etc. are intentionally overlooked, ignored and never considered by Magistrate Judge in her order.

II. Facts and Analysis

1. Plaintiff's motion for imposing sanctions on Defendant's copyright infringement and providing "*made up*" evidence and allegations. (Dkt. No. 34)

Magistrate Judge could NOT provide any facts, grounds, statutes and authorities to support Magistrate Judge's rulings. Magistrate Judge only stated that "*This email was discussed by the Court in the Discovery Order and relates to discovery in this lawsuit. See ECF No. 37 at 10-11.*"

However, it's NOT true. Plaintiff has clearly shown the Court and stated that "*The Court didn't make a ruling for Plaintiff's allegation on Defendant for Copyright Infringement.*" See Dkt. No. 38, Pg. 6. Also, Plaintiff stated that "*Magistrate Judge didn't make a ruling for Defendant's copyright infringement and providing "made up" allegation on Plaintiff.* See Dkt. 19; Dkt. 25; Dkt. 36. Dkt. 39, Pg. 6. *Magistrate Judge's order is clearly erroneous or contrary to law.*" See Dkt. No. 65, Pg. 3. The Court NEVER discussed Plaintiff's email Defendant got from the third party ICC Group Inc. with improper mean is **inadmissible** to the Court in Magistrate Judge's prior ruling. See Dkt. No. 37 at 10-11. The Court NEVER discussed Defendant's Copyright Infringement, which is not warranted by Copyright Law of the United States. Magistrate Judge NEVER discussed and ruled Defendant's misconducts by providing "*made up*" evidence and allegations even if Plaintiff has shown the Court and provided enough evidence for the Court. See Dkt. No. 34, Dkt. No. 39, Dkt. No. 38 and Dkt. No. 65. Magistrate Judge **intentionally** overlooked, ignored and never considered Plaintiff's requests to rule on Defendant's copyright infringement and imposing sanctions on Defendant's copyright infringement and providing "*made up*" evidence and allegations.

Further, Defendant **willfully** and **intentionally** cheated and misled the Court by providing "*made up*" explanation of statute for the Court. See Dkt. No. 65, Pg. 2. But, Defendant's cheating behavior is never sanctioned by the Court.

Magistrate Judge's ruling is clearly erroneous and contrary to law. The District Judge needs to timely object and modify or set aside any part of the order that is clearly erroneous or is contrary to law pursuant to Fed. R, Civ. P. 72(a). The District Judge must rule Plaintiff's motion pursuant to Federal Rules of Civil Procedure and Copyright Law of the United States.

2. Plaintiff's motion for reconsidering (Dkt. No. 38)

Magistrate Judge abused her discretion in her ruling. Plaintiff has clearly shown the Court and stated that some important allegations provided by Plaintiff were NOT ruled by Magistrate Judge on May 26, 2020, such as:

- (1). Defendant provided fabricated evidence.
- (2). Defendant committed perjury.
- (3). Defendant lied to and misled the Court. (a lot of lies and misleading the Court)
- (4). Plaintiff's allegation on Defendant for Copyright Infringement, which is not warranted by existing law.

(5). Plaintiff's email to ICC used as evidence by Defendant is inadmissible in the Court by law, etc.

See Dkt. No. 38, Pg. 2. Also, Plaintiff has clearly shown the Court and stated that Magistrate Judge made a "*made up*" statement to allege Plaintiff "*Although Plaintiff contends only threatening legal action, certain language could be viewed as threats to the safety of ICC and its employees.*" See Dkt. 37, Pg. 11 (emphasis added). But, Magistrate Judge never corrected or rescinded her "*made up*" statement and allegation. Furthermore, Plaintiff has clearly shown the Court and stated as follows:

- (a) "*Magistrate Judge didn't make a ruling for Defendant's perjury, and never considered Plaintiff's allegation and evidences. See Dkt. 38, EXHIBIT "A", Pg. 3; Dkt. 39, Pg. 6.*" (Dkt. No. 65, Pg. 3.)
- (b) "*Magistrate Judge didn't make a ruling for Defendant's fabricated evidences and documents, and never considered Plaintiff's allegation and evidences. See Dkt. 22, Pg. 7, Para. G.; Dkt. 28, Pg. 5 & 6, Para. 8; Dkt. 38, EXHIBIT "B".*" (Dkt. No. 65, Pg. 4.)
- (c) "*Magistrate Judge granted Defendant protective order without a good cause, only based on Plaintiff's so-called threat; violated Fed. R. Civ. P. 26 (c). See Dkt. No. 48.*" (Dkt. No. 65, Pg. 4.)

Moreover, although Magistrate Judge stated that "*To the extent Plaintiff seeks reconsideration based on the Court's failure to await his reply brief in support of his motion to compel, the Court has now fully considered such brief. See ECF No. 38-1. Upon consideration of the reply, the Court reaches the same result and finds no grounds for reconsideration.*" (Dkt. No. 70, Pg. 2), Magistrate Judge intentionally overlooked, ignored and never considered Defendant's perjury and a lot of lies to and misleading the Court in Magistrate Judge's order even if the evidence was provided by Plaintiff. See Dkt. No. 38, EXHIBIT "A". Also, Plaintiff provided all evidence to support Plaintiff's grounds for reconsidering and all Defendant's misconducts the Court should have ruled and sanctioned on Defendant. See Dkt. No. 65, Pg. 3, 4 & 5. Magistrate Judge continued overlooking, ignoring and refusing to rule on Defendant's perjury, falsified documents, copyright infringement and providing "*made up*" evidence and allegations, lies to and misleading the Court, and other misconducts, etc. without any explanation and reasons.

Further, Magistrate Judge refused to reconsider Plaintiff's motion to compel response to a

third-party subpoena issued to Alex Alexandrov of ICC (Dkt. 25 at 9); Defendant's motion to quash the subpoena to ICC and for Sanctions or a protective order (Dkt. Nos. 19, 20); and Plaintiff's Objections to *ex parte* letter decision even if Plaintiff has clearly shown the Court the grounds and evidence. *See* Dkt. No. 25; Dkt. No. 38, Pg. 6, 7, 8; and Dkt. No. 65, Pg. 7, 8, 9. Magistrate Judge's *ex parte* letter decision is evident violation of Judge's ethics and the Local Rule LCvR 37.2. But, Magistrate Judge refused to rescind her decision.

Magistrate Judge has been abusing her discretion. Magistrate Judge asserted that "*Plaintiff has not shown that the Court misapprehended the facts, Plaintiff's legal position, or the law governing the parties' discovery disputes.*" *See* Dkt. No. 70, Pg. 2 (emphasis added). Magistrate Judge's assertion is absolute *pretext*. Plaintiff has clearly shown that the Court has made a lot of mistakes and the Court's rulings are clearly erroneous and contrary to law. Magistrate Judge **intentionally** overlooked, ignored and never ruled Defendant's perjury, falsified documents, copyright infringement and providing "*made up*" allegation, lies to and misleading the Court, and other misconducts, etc. The District Judge needs to timely object and modify or set aside any part of the order that is clearly erroneous and contrary to law pursuant to Fed. R. Civ. P. 72(a). The District Judge needs to rule all the motions covered by "*Plaintiff's motion for reconsidering*" based on the evidence and documents provided by Plaintiff pursuant to Federal Rules of Civil Procedure and existing laws.

3. Plaintiff's motions for hearing and translator (Dkt. No. 45)

Plaintiff has clearly shown the Court and stated that Defendant committed perjury and falsified documents and evidence in Plaintiff's motions. *See* Dkt. No. 22, Dkt. No. 30, Dkt. No. 34, Dkt. No. 38, Dkt. No. 65 and Plaintiff's replies in support of Plaintiff's motions, etc. However, Magistrate Judge refused and stopped Plaintiff's request for an oral hearing to show and present Defendant's perjury and falsified documents to the Court. Magistrate Judge abused her discretion. Plaintiff tried to show and present falsified documents provided by Defendant responsive to Plaintiff's First and Second set of requests for production of documents. *See* Dkt. No. 22, and Dkt. No. 30. These documents are listed in Plaintiff's motions and replies in support of Plaintiff's motion for on-site and verbal hearing. *See* Dkt. No. 64. These falsified documents are provided by Defendant on February 26 and April 3, 2020, respectively. These falsified documents are never further presented, which are listed as follows:

(1) Linde[Zou] – 000289 [See Dkt. No. 22, EXHIBIT VII (1), and Dkt. No. 65, EXHIBIT "1"]

- (2) Linde[Zou] – 000277 [See Dkt. No. 22, EXHIBIT VIII (1)]
- (3) Linde[Zou] – 000273—0 00274 [See Dkt. No. 22, EXHIBIT IX (1)]
- (4) Linde[Zou] – 000219 [See Dkt. No. 22, EXHIBIT VI (2)]
- (5) Linde [Zou] 000292 – 000293 (See EXHIBIT, provided by Defendant on April 4, 2020)

Magistrate Judge does not have any facts, evidence or grounds to deny Plaintiff's requests for a hearing. Plaintiff lost certain rights without a meaningful hearing or even an opportunity to be heard. Magistrate Judge's rulings without a hearing are clearly erroneous and contrary to law. The District Judge needs to timely object and modify or set aside any part of the order that is clearly erroneous or is contrary to law pursuant to Fed. R. Civ. P. 72(a). The District Judge needs to rule and impose sanctions for Defendant's falsification behaviors with the Court inherent power.

4. Plaintiff's Motion to Strike and for Sanctions (Dkt. No. 59)

Defendant did not serve Plaintiff "Defendant's Response to Plaintiff's motion to reconsider" (Dkt. No. 49) and violated Fed. R. Civ. P. 5. After somebody reminded Plaintiff, Plaintiff requested Defendant to send Plaintiff a copy after 4 days. In Magistrate Judge's ruling, Magistrate Judge never imposed sanction on Defendant for Defendant's violation. So, Plaintiff wonders whether everybody may violate Federal Rules of Civil Procedure arbitrarily. If so, is there any use for Federal Rules of Civil Procedure? Federal Rules of Civil Procedure has seemed to be a pile of waste papers in the Court for the case because Defendant never provided or produced documents timely; but Defendant was never sanctioned by the Court. See Dkt. No. 24, Dkt. No. 31, Dkt. No. 38, Pg. 5, 6, and Dkt. No. 65, Pg. 4, 5. Also, Defendant was never sanctioned for Defendant's perjury, falsified documents, copyright infringement and providing "*made up*" evidence and allegations, lies to and misleading the Court and other misconducts, etc. Where is justice of the Court? Magistrate Judge abused her discretion over and over. Now, it's not the problem of Judge's merit. It's Federal Rules of Civil Procedure and U.S. laws being trampled arbitrarily. The District Judge needs to timely object and modify or set aside any part of the order that is clearly erroneous or is contrary to law pursuant to Fed. R. Civ. P. 72(a).

5. Defendant's Motion for Entry of Protective Order (Dkt. No. 44)

Magistrate Judge granted Defendant protective order without a good cause, and violated Fed. R. Civ. P. 26(c). Defendant's cause for a protective order is entirely based on so-called Plaintiff's "*threat*", NOT confidential or a trade secret cause. The Court's protective order is

baseless without any supports of statutes or authority. As Plaintiff has shown the Court and stated that Defendant falsified documents, the protective order will encourage Defendant to falsify more documents. Actually, Defendant has falsified some documents. *See above Paragraph "3".* Further, it will spend more time for Plaintiff to challenge some "confidential" documents, and more Court resources will be wasted. The protective order will delay and block the progress of discovery, not facilitate discovery. The District Judge needs to timely object and modify or set aside any part of the order that is clearly erroneous or is contrary to law pursuant to Fed. R. Civ. P. 72(a).

6. Motion for Extension of Time to Comply with Order (Dkt. No. 50)

Defendant could not produce documents by the date (June 18, 2020) ordered by the Court. Defendant violated the Court order, and was in contempt of the Court because the litigation is **NOT** stay of proceedings. Defendant lied to and misled the Court. How could Defendant request extension of time by nearly the last day required by the Court order? After Defendant filed the motion for extension of time, Defendant got additional three weeks (21 days) to prepare the documents, which should have been provided by June 18, 2020. Defendant is in contempt of the Court. The District Judge needs to timely object and modify or set aside any part of the order that is clearly erroneous or is contrary to law pursuant to Fed. R. Civ. P. 72(a). The District Judge needs to impose sanctions on Defendant's contempt of the Court.

7. Conclusion

WHEREFORE, it's necessary for the District Judge to rule on these motions because Magistrate Judge's rulings are clearly erroneous and contrary to law. Plaintiff has clearly shown the Court and provided all the facts and evidences for the Court. These facts and evidence will support Plaintiff's motions. Plaintiff respectfully requests the District Judge to rule on these motions pursuant to Federal Rules of Civil Procedure, copyright law of the United States and local rules, and grant Plaintiff appropriate relief as the Court deems.

Dated: July 21, 2020

Respectfully Submitted,



Bo Zou

7972 S Sheridan Road, Apt. 314

Tulsa, OK 74133

Phone: 713-835-8655

Pro Se Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of a duplicate of the above and foregoing Plaintiff's motion for objecting to Magistrate Judge's rulings; and motion to request the District Judge to rule pursuant to Federal Rules of Civil Procedure has been served upon the opposing party, or his attorney of record, to the following e-mail address on the 21st day of July, 2020.

JRector@littler.com

JCraft@littler.com

LHedrick@littler.com

LSchwenkel@littler.com



Bo Zou

Pro Se Plaintiff

U.S. District Court
U.S. District Court for the Northern District of Oklahoma (Tulsa)
CIVIL DOCKET FOR CASE #: 4:19-cv-00554-JFH-JFJ

Zou v. Linde Engineering North America, Inc.

Assigned to: Judge John F Heil, III

Referred to: Magistrate Judge Jodi F Jayne

Case in other court: 10th Circuit, 20-05099 (#116)

10th Circuit Court, 21-05002

Cause: 42:1983 Civil Rights (Employment Discrimination)

Date Filed: 10/18/2019

Jury Demand: None

Nature of Suit: 442 Civil Rights: Jobs

Jurisdiction: Federal Question

Plaintiff

Bo Zou

represented by **Bo Zou**

4920 S YORKTOWN AVE APT 122

TULSA, OK 74105

713-835-8655

PRO SE

V.

Defendant

Linde Engineering North America, Inc.

represented by **Jessica L. Craft**

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ATTORNEY TO BE NOTICED

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LEAD ATTORNEY

ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
10/18/2019	1	COMPLAINT against Linde Engineering North America, Inc. by Bo Zou (sc, Dpty Clk) (Entered: 10/21/2019)
10/18/2019	2	MOTION for Chinese (Mandarin) Translator by Bo Zou (sc, Dpty Clk) (Entered: APPENDIX J 10/18/2019a)

		10/21/2019)
10/18/2019	3	LETTER <i>from Plaintiff</i> by Bo Zou (sc, Dpty Clk) (Entered: 10/21/2019)
10/18/2019	4	FILING FEES Paid in Full by Bo Zou (sc, Dpty Clk) (Entered: 10/21/2019)
10/18/2019	5	SUMMONS Issued by Court Clerk as to Linde Engineering North America, Inc. (sc, Dpty Clk) (Entered: 10/21/2019)
11/25/2019	6	ANSWER (Re: 1 Complaint) by Linde Engineering North America, Inc. [Note: Attorney Jonathan Gary Rector added to party Linde Engineering North America, Inc.(pty:dft).] (Rector, Jonathan) (Entered: 11/25/2019)
11/25/2019	7	CORPORATE DISCLOSURE STATEMENT by Linde Engineering North America, Inc. (Rector, Jonathan) (Entered: 11/25/2019)
11/25/2019	8	MOTION for Relief (<i>for Relief of Local Counsel Requirement</i>) by Linde Engineering North America, Inc. (Rector, Jonathan) (Entered: 11/25/2019)
11/26/2019	9	MINUTE ORDER by Chief Judge John E Dowdell <i>The plaintiff's request for a translator because of his "accent" is denied at this time. There are no hearings set at this time, and the plaintiff's Complaint is coherent and is filed in English. At this time, the Court finds that the plaintiff has not established a need for a translator. As the litigation progresses, if a translator becomes necessary for purposes of accommodating plaintiff's accent (e.g. during deposition, court hearings) or for any other reason, the Court will consider a renewed motion for appointment of a translator ;</i> denying 2 Motion for Miscellaneous Relief (This entry is the Official Order of the Court. No document is attached.) (JED1, Chambers) (Entered: 11/26/2019)
11/26/2019	10	MINUTE ORDER by Chief Judge John E Dowdell <i>Defendant's Motion for Relief from Local Counsel Requirement (Doc. 8) is granted. Defendant's attorneys are admitted to practice in the State of Oklahoma, have practiced in Oklahoma, and are admitted to practice in this Court. Accordingly, defendant's counsel are excused from the requirement to associate with local counsel under LCVR 83.3 ;</i> granting 8 Motion for Relief (This entry is the Official Order of the Court. No document is attached.) (JED1, Chambers) (Entered: 11/26/2019)
11/27/2019	11	MINUTE ORDER by Court Clerk , directing Linde Engineering North America, Inc. to file a Corporate Disclosure Statement pursuant to FRCvP 7.1 within seven (7) days of this order, if they have not already done so. The parties shall use the form entitled Corporate Disclosure Statement available on the Courts website (please do not refile if already filed on non-court form unless directed to do so). If you have already filed your Corporate Disclosure Statement in this case, you are reminded to file a Supplemental Corporate Disclosure Statement within a reasonable time of any change in the information that the statement requires. (This entry is the Official Order of the Court. No document is attached.) (alg, Dpty Clk) (Entered: 11/27/2019)
12/03/2019	12	ATTORNEY APPEARANCE by Jessica Lynn Craft on behalf of All Defendants [Note: Attorney Jessica Lynn Craft added to party Linde Engineering North America, Inc. (pty:dft).] (Craft, Jessica) (Entered: 12/03/2019)
12/06/2019	13	AMENDED COMPLAINT against Linde Engineering North America, Inc. (Re: 1 Complaint) by Bo Zou (jjs, Dpty Clk) (Entered: 12/06/2019)
12/09/2019	14	ORDER by Chief Judge John E Dowdell , directing parties to file joint status report (Status Report due by 1/9/2020) (SAS, Chambers) (Entered: 12/09/2019)
12/20/2019	15	ANSWER (Re: 13 Amended Complaint) by Linde Engineering North America, Inc. (Craft, Jessica) (Entered: 12/20/2019)

01/08/2020	16	Joint STATUS REPORT by Linde Engineering North America, Inc. (Craft, Jessica) (Entered: 01/08/2020)
01/14/2020	17	NOTICE of Change of Address by Bo Zou (jjs, Dpty Clk) (Entered: 01/14/2020)
01/14/2020	18	MOTION to request a Chinese (Mandarin) translator by Bo Zou (jjs, Dpty Clk) (Main Document 18 replaced on 1/15/2020 to add correct document) (jjs, Dpty Clk). (Entered: 01/14/2020)
01/15/2020		NOTICE of Docket Entry Modification; Error: wrong pdf attached; Correction: replaced pdf (Re: 18 MOTION to request a Chinese (Mandarin) translator) (jjs, Dpty Clk) (Entered: 01/15/2020)
03/04/2020	19	MOTION to Quash by Linde Engineering North America, Inc. (With attachments) (Rector, Jonathan) Modified on 3/4/2020; this is a three-part motion of which only one part was efiled - see 20 for Motion for Sanctions and Motion for Protective Order (sac, Dpty Clk). (Entered: 03/04/2020)
03/04/2020	20	MOTION for Sanctions , MOTION for Protective Order (<i>both parts submitted as part of 19</i>) by Linde Engineering North America, Inc. (sac, Dpty Clk) (Entered: 03/04/2020)
03/04/2020		***Motion(s) Referred to Magistrate Judge Jayne (Re: 20 MOTION for Sanctions MOTION for Protective Order (<i>both parts submitted as part of 19</i>)) (sac, Dpty Clk) (Entered: 03/04/2020)
03/04/2020		NOTICE of Docket Entry Modification; Error: this is a three-part motion of which only one part was efiled; Correction: efiled Motion for Sanctions and Motion for Protective Order - see 20 (Re: 19 MOTION to Quash) (sac, Dpty Clk) (Entered: 03/04/2020)
03/06/2020	21	MINUTE ORDER by Magistrate Judge Jodi F Jayne <i>Plaintiff is ordered to file a response to Defendant's Motion to Quash Third-Party Subpoena and Motion for Sanctions or, in the Alternative, Motion for Protective Order (ECF Nos. 19, 20) by March 18, 2020, and Defendant may file a reply by March 25, 2020. The motions are set for a telephonic hearing on April 2, 2020, at 10:00 a.m. Counsel for Defendant is directed to arrange the conference call and contact the Courtroom Deputy at stephanie_cope@oknd.uscourts.gov and Plaintiff of the conference number, setting/resetting deadline(s)/hearing(s): (Responses due by 3/18/2020, Replies due by 3/25/2020, Motion Hearing set for 4/2/2020 at 10:00 AM before Magistrate Judge Jodi F Jayne) (Re: 20 MOTION for Sanctions MOTION for Protective Order (<i>both parts submitted as part of 19</i>), 19 MOTION to Quash) (This entry is the Official Order of the Court. No document is attached.)</i> (sdc, Dpty Clk) (Entered: 03/06/2020)
03/09/2020	22	MOTION to Compel <i>Production of Documents</i> by Bo Zou (With attachments) (sc, Dpty Clk) Modified on 3/11/2020 this is a two-part motion, see Dkt. # 24 for the additional motion part (sc, Dpty Clk). (Entered: 03/10/2020)
03/09/2020	24	MOTION for Sanctions <i>Responsive to Plaintiff's First Request for Documents</i> (<i>submitted as dkt # 22</i>) by Bo Zou (sc, Dpty Clk) (Entered: 03/11/2020)
03/09/2020		NOTICE of Docket Entry Modification; Error: this is a two-part motion of which only one part was efiled; Correction: efiled MOTION for Sanctions as Dkt. # 24 (Re: 22 MOTION to Compel <i>Production of Documents and for Sanctions Responsive to Plaintiff's First Request for Documents</i>) (sc, Dpty Clk) (Entered: 03/11/2020)
03/09/2020		***Motion(s) Referred to Magistrate Judge Jayne (Re: 24 MOTION for Sanctions <i>Responsive to Plaintiff's First Request for Documents</i> (<i>submitted as dkt # 22</i>)) (sc, Dpty Clk) (Entered: 03/11/2020)
03/10/2020	23	MINUTE ORDER by Magistrate Judge Jodi F Jayne <i>The telephone hearing scheduled</i> APPENDIX J 111a

		for April 2, 2020, is stricken. All other deadlines remain the same, striking/terminating deadline(s)/Hearing(s) (This entry is the Official Order of the Court. No document is attached.) (sdc, Dpty Clk) (Entered: 03/10/2020)
03/17/2020	25	RESPONSE in Opposition to Motion (Re: 20 MOTION for Sanctions MOTION for Protective Order (<i>both parts submitted as part of 19</i>), 19 MOTION to Quash) by Bo Zou ; (sc, Dpty Clk) (Entered: 03/17/2020)
03/25/2020	26	RESPONSE in Opposition to Motion (Re: 22 MOTION to Compel <i>Production of Documents and for Sanctions Responsive to Plaintiff's First Request for Documents</i>) by Linde Engineering North America, Inc. ; (With attachments) (Craft, Jessica) (Entered: 03/25/2020)
03/25/2020	27	REPLY to Response to Motion (Re: 20 MOTION for Sanctions MOTION for Protective Order (<i>both parts submitted as part of 19</i>), 19 MOTION to Quash) by Linde Engineering North America, Inc. ; (Rector, Jonathan) (Entered: 03/25/2020)
04/02/2020	28	REPLY to Response to Motion (Re: 24 MOTION for Sanctions <i>Responsive to Plaintiff's First Request for Documents (submitted as dkt # 22)</i> , 22 MOTION to Compel <i>Production of Documents and for Sanctions Responsive to Plaintiff's First Request for Documents</i>) by Bo Zou ; (With attachments) (sc, Dpty Clk) 4/2/2020 - image is as legible as the original. (sc, Dpty Clk). (Entered: 04/02/2020)
04/16/2020	29	MOTION to Accelerate/Extend/Reset Hearing(s)/Deadline(s) <i>Discovery Deadline on Joint Status Report</i> (Re: 21 Minute Order,,,,, Setting/Resetting Deadline(s)/Hearing(s),,,,) by Bo Zou (sc, Dpty Clk) (Entered: 04/16/2020)
04/16/2020	30	MOTION to Compel <i>Production of Documents</i> , by Bo Zou (With attachments) (sc, Dpty Clk) Modified on 4/17/2020 this is a two-part motion, see Dkt. # 31 for the additional motion parts. (sc, Dpty Clk) (Entered: 04/16/2020)
04/16/2020	31	MOTION for Sanctions (<i>submitted as dkt # 30</i>) by Bo Zou (sc, Dpty Clk) (Entered: 04/17/2020)
04/17/2020	32	Opposed MOTION for Entry of Scheduling Order by Linde Engineering North America, Inc. (Rector, Jonathan) (Entered: 04/17/2020)
04/17/2020	33	RESPONSE in Opposition to Motion (Re: 29 MOTION to Accelerate/Extend/Reset Hearing(s)/Deadline(s) <i>Discovery Deadline on Joint Status Report</i>) by Linde Engineering North America, Inc. ; (Rector, Jonathan) (Entered: 04/17/2020)
04/24/2020	34	MOTION for Sanctions by Bo Zou (alg, Dpty Clk) (Entered: 04/24/2020)
05/07/2020	35	RESPONSE in Opposition to Motion (Re: 30 MOTION to Compel <i>Production of Documents</i>) by Linde Engineering North America, Inc. ; (With attachments) (Rector, Jonathan) (Entered: 05/07/2020)
05/14/2020	36	RESPONSE in Opposition to Motion (Re: 34 MOTION for Sanctions) by Linde Engineering North America, Inc. ; (With attachments) (Rector, Jonathan) (Entered: 05/14/2020)
05/19/2020	37	ORDER by Magistrate Judge Jodi F Jayne ; granting in part and denying in part 30 Motion to Compel; granting in part and denying in part 31 Motion for Sanctions; denying 19 Motion to Quash; granting in part and denying in part 20 Motion for Sanctions; granting in part and denying in part 20 Motion for Protective Order; granting in part and denying in part 22 Motion to Compel; granting in part and denying in part 24 Motion for Sanctions (sdc, Dpty Clk) (Entered: 05/19/2020)
05/26/2020	38	MOTION to Reconsider (Re: 21 Minute Order, Setting/Resetting Deadline(s)/Hearing(s),

		37 Order, Ruling on Motion to Compel, Ruling on Motion for Sanctions, Ruling on Motion to Quash, Ruling on Motion for Protective Order) by Bo Zou (With attachments) (sc, Dpty Clk) (Entered: 05/26/2020)
05/28/2020	39	REPLY to Response to Motion (Re: 34 MOTION for Sanctions) by Bo Zou ; (sc, Dpty Clk) (Entered: 05/28/2020)
06/01/2020	40	MOTION to Reassign Judge by Bo Zou (alg, Dpty Clk) (Entered: 06/01/2020)
06/01/2020	41	MOTION for Hearing by Bo Zou (alg, Dpty Clk) (Entered: 06/01/2020)
06/01/2020	42	MOTION for <i>Chinese (Mandarin) Translator</i> by Bo Zou (alg, Dpty Clk) (Entered: 06/01/2020)
06/02/2020	43	MINUTE ORDER by Chief Judge John E Dowdell , referring motion(s) to Magistrate Judge Jayne (Re: 38 MOTION to Reconsider , 34 MOTION for Sanctions) (This entry is the Official Order of the Court. No document is attached.) (SAS, Chambers) (Entered: 06/02/2020)
06/02/2020	44	Opposed MOTION for Protective Order by Linde Engineering North America, Inc. (With attachments) (Rector, Jonathan) (Entered: 06/02/2020)
06/04/2020	45	MOTION for Hearing (Re: 38 MOTION to Reconsider) , MOTION for <i>Chinese (Mandarin) Translator</i> by Bo Zou (alg, Dpty Clk) Modified on 6/4/2020 to create link to 38 (sac, Dpty Clk). (Entered: 06/04/2020)
06/04/2020	46	MINUTE ORDER by Chief Judge John E Dowdell , referring motion(s) to Magistrate Judge Jayne (Re: 45 MOTION for Hearing MOTION for <i>Chinese (Mandarin) Translator</i>) (This entry is the Official Order of the Court. No document is attached.) (lml, Dpty Clk) (Entered: 06/04/2020)
06/10/2020	47	MINUTE ORDER by <i>Court Clerk pursuant to General Order 20-14</i> , reassigning case to Judge John F Heil, III, Chief Judge John E Dowdell no longer assigned to case, changing case number to 19-CV-554-JFH-JFJ (This entry is the Official Order of the Court. No document is attached.) (lml, Dpty Clk) (Entered: 06/10/2020)
06/12/2020	48	RESPONSE in Opposition to Motion (Re: 44 Opposed MOTION for Protective Order) by Bo Zou ; (alg, Dpty Clk) (Entered: 06/12/2020)
06/15/2020	49	RESPONSE in Opposition to Motion (Re: 38 MOTION to Reconsider) by Linde Engineering North America, Inc. ; (Rector, Jonathan) (Entered: 06/15/2020)
06/17/2020	50	Opposed MOTION to Accelerate/Extend/Reset Hearing(s)/Deadline(s) <i>MOTION FOR EXTENSION OF TIME TO COMPLY WITH THE COURTS ORDER</i> by Linde Engineering North America, Inc. (Craft, Jessica) (Entered: 06/17/2020)
06/18/2020	51	MOTION to Quash by Linde Engineering North America, Inc. (Rector, Jonathan) Modified on 6/18/2020; this is a two-part motion of which only one part was efiled - see 54 for Motion for Protective Order (sac, Dpty Clk). (Entered: 06/18/2020)
06/18/2020	52	ERRATA/CORRECTION (Re: 51 MOTION to Quash and For Protective Order) by Linde Engineering North America, Inc. (With attachments) (Rector, Jonathan) (Entered: 06/18/2020)
06/18/2020	53	Opposed MOTION to Stay <i>Depositions Pending Resolution of Defendant's Motion to Quash and For Protective Order</i> by Linde Engineering North America, Inc. (Rector, Jonathan) (Entered: 06/18/2020)
06/18/2020	54	MOTION for Protective Order (<i>submitted as part of 51</i>) by Linde Engineering North America, Inc. (sac, Dpty Clk) (Entered: 06/18/2020)

06/18/2020		NOTICE of Docket Entry Modification; Error: this is a two-part motion of which only one part was efiled; Correction: efiled Motion for Protective Order - see 54 (Re: 51 MOTION to Quash) (sac, Dpty Clk) (Entered: 06/18/2020)
06/18/2020	55	MINUTE ORDER by Judge John F Heil, III , referring motion(s) to Magistrate Jayne (Re: 53 Opposed MOTION to Stay <i>Depositions Pending Resolution of Defendant's Motion to Quash and For Protective Order</i> , 50 Opposed MOTION to Accelerate/Extend/Reset Hearing(s)/Deadline(s) <i>MOTION FOR EXTENSION OF TIME TO COMPLY WITH THE COURTS ORDER</i>) (This entry is the Official Order of the Court. No document is attached.) (pll, Dpty Clk) (Entered: 06/18/2020)
06/18/2020	56	RESPONSE in Opposition to Motion (Re: 41 MOTION for Hearing) by Linde Engineering North America, Inc. ; (With attachments) (Craft, Jessica) (Entered: 06/18/2020)
06/18/2020	57	RESPONSE in Opposition to Motion (Re: 40 MOTION to Reassign Judge) by Linde Engineering North America, Inc. ; (Craft, Jessica) (Entered: 06/18/2020)
06/22/2020	58	MINUTE ORDER by Magistrate Judge Jodi F Jayne <i>Defendant's Opposed Motion to Stay Depositions Pending Resolution of Defendant's Motion to Quash and for Protective Order (ECF No. 53)</i> , which seeks to quash ten unilaterally noticed depositions to commence tomorrow, June 23, 2020, is GRANTED. All depositions noticed by Plaintiff are hereby STAYED pending ruling on Defendant's Motion to Quash and for Protective Order (ECF No. 51, 54). There is no scheduling order in place, and Plaintiff will not suffer prejudice from delay of the depositions pending the Court's rulings ; granting 53 Motion to Stay (This entry is the Official Order of the Court. No document is attached.) (sdc, Dpty Clk) (Entered: 06/22/2020)
06/23/2020	59	MOTION to Strike Document(s) , MOTION for Sanctions (Re: 49 Response in Opposition to Motion) by Bo Zou (alg, Dpty Clk) (Entered: 06/23/2020)
06/23/2020	60	MOTION to Compel , MOTION for Sanctions by Bo Zou (alg, Dpty Clk) (Entered: 06/23/2020)
06/25/2020	61	MINUTE ORDER by Judge John F Heil, III , referring motion(s) to Magistrate Jayne (Re: 59 MOTION to Strike Document(s) MOTION for Sanctions) (This entry is the Official Order of the Court. No document is attached.) (pll, Dpty Clk) (Entered: 06/25/2020)
06/25/2020	62	RESPONSE in Opposition to Motion (Re: 45 MOTION for Hearing MOTION for Chinese (Mandarin) Translator) by Linde Engineering North America, Inc. ; (Craft, Jessica) (Entered: 06/25/2020)
06/29/2020	63	RESPONSE in Opposition to Motion (Re: 50 MOTION to Accelerate/Extend/Reset Hearing(s)/Deadline(s) by Bo Zou ; (sc, Dpty Clk) Modified on 7/1/2020 to correct event (sc, Dpty Clk). (Entered: 06/30/2020)
06/29/2020	64	REPLY to Response to Motion (Re: 41 MOTION for Hearing, 45 MOTION for Hearing MOTION for Chinese (Mandarin) Translator) by Bo Zou ; (sc, Dpty Clk) Modified on 7/7/2020 to create link to 41 (sac, Dpty Clk). (Entered: 06/30/2020)
06/29/2020	65	REPLY to Response to Motion (Re: 38 MOTION to Reconsider) by Bo Zou ; (sc, Dpty Clk) (Entered: 06/30/2020)
07/01/2020		NOTICE of Docket Entry Modification; Error: wrong event selected (REPLY to Response to Motion); Correction: corrected event and linked to correct dkt number (RESPONSE in Opposition to Motion) (Re: 63 Reply to Response to Motion) (sc, Dpty Clk) (Entered: 07/01/2020)

07/02/2020	66	REPLY to Response to Motion (Re: 40 MOTION to Reassign Judge) by Bo Zou ; (dlg, Dpty Clk) Modified on 7/6/2020 to change text to reflect correct event. (dlg, Dpty Clk). (Entered: 07/02/2020)
07/02/2020	67	OBJECTION (Re: 58 Minute Order,,, Ruling on Motion to Stay,,,) by Bo Zou (dlg, Dpty Clk) (Entered: 07/02/2020)
07/06/2020		NOTICE of Docket Entry Modification; Error: Wrong event selected (Brief in support of motion); Correction: Edited docket text to reflect correct event (Reply to response to motion) (Re: 66 Brief in Support of Motion) (dlg, Dpty Clk) (Entered: 07/06/2020)
07/08/2020	68	RESPONSE in Opposition to Motion (Re: 54 MOTION for Protective Order (<i>submitted as part of 51</i>), 51 MOTION to Quash) by Bo Zou ; (With attachments) (sc, Dpty Clk) (Entered: 07/08/2020)
07/09/2020	69	ORDER by Judge John F Heil, III , directing parties to file joint status report (Status Report due by 7/24/2020) (CDK, Chambers) (Entered: 07/09/2020)
07/09/2020	70	ORDER by Magistrate Judge Jodi F Jayne ; denying 34 Motion for Sanctions; denying 38 Motion to Reconsider; granting 44 Motion for Protective Order; denying 45 Motion for Hearing; denying 45 Motion for Miscellaneous Relief; granting 50 Motion to Accelerate/Extend/Reset Hearing(s)/Deadline(s); denying 59 Motion to Strike Document(s); denying 59 Motion for Sanctions (sdc, Dpty Clk). (Entered: 07/09/2020)
07/09/2020	71	PROTECTIVE ORDER by Magistrate Judge Jodi F Jayne (sdc, Dpty Clk) (Entered: 07/09/2020)
07/10/2020	72	OBJECTION (Re: 69 Order, Directing Parties to File Joint Status Report) by Bo Zou (sc, Dpty Clk) (Entered: 07/10/2020)
07/10/2020	73	MOTION to Change Venue by Bo Zou (sc, Dpty Clk) (Entered: 07/10/2020)
07/15/2020	74	RESPONSE in Opposition to Motion (Re: 60 MOTION to Compel MOTION for Sanctions) by Linde Engineering North America, Inc. ; (With attachments) (Craft, Jessica) (Entered: 07/15/2020)
07/21/2020	75	REPLY to Response to Motion (Re: 60 MOTION to Compel MOTION for Sanctions) by Bo Zou ; (With attachments) (sc, Dpty Clk) (Entered: 07/21/2020)
07/21/2020	76	OBJECTION to Magistrate Judge's Order (Re: 70 Order, Ruling on Motion for Sanctions, Ruling on Motion to Reconsider, Ruling on Motion for Protective Order, Ruling on Motion for Hearing, Ruling on Motion for Miscellaneous Relief, Ruling on Motion to Accelerate/Extend/Reset Hearing(s)/Deadline(s),, Ruling on Motion to Strike Document(s)) by Bo Zou (With attachments) (sc, Dpty Clk) Modified on 7/22/2020 to change event (sac, Dpty Clk). (Entered: 07/21/2020)
07/21/2020	77	MOTION to Request the District Judge to Rule Pursuant to Federal Rules of Civil Procedure (<i>submitted as dkt # 76</i>) (Re: 76 Objection,) by Bo Zou (sc, Dpty Clk) Modified on 7/22/2020 - ENTERED IN ERROR (sac, Dpty Clk). (Entered: 07/21/2020)
07/22/2020		NOTICE of Docket Entry Modification; Error: wrong event selected (Objection); entry made which wasn't necessary (Motion for Miscellaneous Relief); Correction: changed event (Objection to Magistrate Judge's Order); terminated motion filed in error (Re: 77 MOTION to Request the District Judge to Rule Pursuant to Federal Rules of Civil Procedure (<i>submitted as dkt # 76</i>), 76 OBJECTION to Magistrate Judge) (sac, Dpty Clk) (Entered: 07/22/2020)
07/22/2020	78	REPLY to Response to Motion (Re: 51 MOTION to Quash, 54 MOTION for Protective Order) by Linde Engineering North America, Inc. ; (With attachments) (Rector,

		Jonathan) Modified on 7/23/2020 to add link to 54 (sac, Dpty Clk). (Entered: 07/22/2020)
07/23/2020	79	RESPONSE (Re: 67 Objection) by Linde Engineering North America, Inc. (Rector, Jonathan) (Entered: 07/23/2020)
07/24/2020	80	STATUS REPORT by Linde Engineering North America, Inc. (With attachments) (Rector, Jonathan) (Entered: 07/24/2020)
07/27/2020	81	MINUTE ORDER by Judge John F Heil, III , referring motion(s) to Magistrate Jayne (Re: 18 MOTION to request a Chinese (Mandarin) translator , 42 MOTION for Chinese (Mandarin) Translator) (This entry is the Official Order of the Court. No document is attached.) (pll, Dpty Clk) (Entered: 07/27/2020)
07/27/2020	82	MINUTE ORDER by Judge John F Heil, III : <i>Finding plaintiff's motion to extend discovery deadline on joint status report moot</i> ; finding as moot 29 Motion to Accelerate/Extend/Reset Hearing(s)/Deadline(s) (This entry is the Official Order of the Court. No document is attached.) (pll, Dpty Clk) (Entered: 07/27/2020)
07/27/2020	83	MINUTE ORDER by Judge John F Heil, III : <i>Plaintiff's Motion for Change of Magistrate Judge will be construed as a Motion to Recuse</i> , referring motion(s) to Magistrate Jayne (Re: 40 MOTION to Reassign Judge) (This entry is the Official Order of the Court. No document is attached.) (pll, Dpty Clk) (Entered: 07/27/2020)
07/31/2020	84	RESPONSE in Opposition to Motion (Re: 73 MOTION to Change Venue) by Linde Engineering North America, Inc. ; (Rector, Jonathan) (Entered: 07/31/2020)
07/31/2020	85	MOTION to Reconsider (Re: 83 Minute Order,, Referring Motion(s),) by Bo Zou (alg, Dpty Clk) (Entered: 07/31/2020)
07/31/2020	86	MOTION to Compel , MOTION for Sanctions by Bo Zou (With attachments) (alg, Dpty Clk) (Entered: 07/31/2020)
08/04/2020	87	RESPONSE in Opposition to Motion (<i>Plaintiff's Objection</i>) to the Magistrate Judge's Order (Re: 76 OBJECTION to Magistrate Judge) by Linde Engineering North America, Inc. ; (Rector, Jonathan) (Entered: 08/04/2020)
08/06/2020	88	REPLY to Response to Motion (Re: 67 OBJECTION to Magistrate Judge) by Bo Zou ; (sc, Dpty Clk) Modified on 8/19/2020 to link dkt #67 (sc, Dpty Clk). (Entered: 08/06/2020)
08/06/2020	89	MOTION for Contempt by Bo Zou (With attachments) (sc, Dpty Clk) (Entered: 08/06/2020)
08/07/2020	90	SCEDULING ORDER by Judge John F Heil, III (<i>initial</i>), setting/resetting scheduling order date(s): (Dispositive Motions due by 12/29/2020, Discovery due by 1/12/2021, Proposed Pretrial Order due by 3/22/2021, Pretrial Conference set for 3/30/2021 at 09:30 AM before Judge John F Heil III, Jury Trial set for 4/19/2021 at 09:30 AM before Judge John F Heil III) (pll, Dpty Clk) (Entered: 08/07/2020)
08/10/2020	91	MINUTE ORDER by Judge John F Heil, III : <i>Following the entry of the scheduling order 90 , defendant's motion for entry of scheduling order is moot</i> ; finding as moot 32 Motion for Miscellaneous Relief (This entry is the Official Order of the Court. No document is attached.) (pll, Dpty Clk) (Entered: 08/10/2020)
08/10/2020	92	MINUTE ORDER by Judge John F Heil, III , referring Defendant's request for special discovery management order contained in the status report to Magistrate Jayne (Re: 80 Status Report) (This entry is the Official Order of the Court. No document is attached.) (pll, Dpty Clk) (Entered: 08/10/2020)
08/10/2020	93	MINUTE ORDER by Magistrate Judge Jodi F Jayne <i>In the Status Report, Defendant</i> APPENDIX J 116a

		<i>requests a Special Discovery Management Order that: (1) limits both parties to four (4) total fact witness depositions, and (2) limits the parties to seventy-five (75) total requests for production or, alternatively, requiring Plaintiff to seek leave of Court before serving further discovery requests. Plaintiff may respond to this request for a Special Discovery Management Order no later than ten days from the date of this order, or by August 20, 2020. No reply shall be permitted, setting/resetting deadline(s)/hearing(s): (Miscellaneous Deadline set for 8/20/2020) (This entry is the Official Order of the Court. No document is attached.)</i> (sdc, Dpty Clk) (Entered: 08/10/2020)
08/11/2020	94	MOTION for Protective Order by Linde Engineering North America, Inc. (With attachments) (Rector, Jonathan) (Entered: 08/11/2020)
08/12/2020	95	<i>MINUTE ORDER by Magistrate Judge Jodi F Jayne For good cause shown and to avoid unnecessary litigation expense, Defendant is excused from filing a response brief to ECF Nos. 85, 86, and 89. Plaintiff shall respond to Defendant's Motion for Protective Order (ECF No. 94) by August 20, 2020. Plaintiff shall not file any further motions until the Court has ruled on Defendants Motion for Protective Order, setting/resetting deadline(s)/hearing(s): (Responses due by 8/20/2020) (Re: 94 MOTION for Protective Order) (This entry is the Official Order of the Court. No document is attached.)</i> (sdc, Dpty Clk) (Entered: 08/12/2020)
08/12/2020	96	OBJECTION to the Court Scheduling Order for Jury Trial (Re: 90 Scheduling Order,, Setting/Resetting Scheduling Order Date(s),) by Bo Zou (alg, Dpty Clk) (Entered: 08/13/2020)
08/12/2020	97	MOTION for Hearing , MOTION Chinese (Mandarin) Translator by Bo Zou (alg, Dpty Clk) (Entered: 08/13/2020)
08/12/2020	98	REPLY (Re: 76 OBJECTION to Magistrate Judge) by Bo Zou (alg, Dpty Clk) (Entered: 08/13/2020)
08/12/2020	99	REPLY (Re: 73 MOTION to Change Venue) by Bo Zou (alg, Dpty Clk) (Entered: 08/13/2020)
08/14/2020	100	OBJECTION (Re: 95 Minute Order,,, Setting/Resetting Deadline(s)/Hearing(s),,) by Bo Zou (alg, Dpty Clk) (Entered: 08/14/2020)
08/17/2020	101	OBJECTION (Re: 93 Minute Order,,, Setting/Resetting Deadline(s)/Hearing(s),,,) by Bo Zou (sc, Dpty Clk) (Entered: 08/17/2020)
08/20/2020	102	OBJECTION (Re: 90 Scheduling Order,, Setting/Resetting Scheduling Order Date(s),) by Bo Zou (sc, Dpty Clk) (Entered: 08/21/2020)
08/20/2020	103	OBJECTION (Re: 80 Status Report, 93 Minute Order,,, Setting/Resetting Deadline(s)/Hearing(s),,,) by Bo Zou (sc, Dpty Clk) (Entered: 08/21/2020)
08/20/2020	104	OBJECTION (Re: 94 MOTION for Protective Order) by Bo Zou (sc, Dpty Clk) (Entered: 08/21/2020)
08/25/2020	105	OBJECTION (Re: 95 Minute Order,,, Setting/Resetting Deadline(s)/Hearing(s),,) by Bo Zou (alg, Dpty Clk) (Entered: 08/25/2020)
09/03/2020	106	RESPONSE (Re: 103 Objection, 102 Objection, 105 Objection, 100 Objection, 101 Objection) by Linde Engineering North America, Inc. (Rector, Jonathan) (Entered: 09/03/2020)
09/04/2020	107	REPLY (Re: 95 Minute Order,,, Setting/Resetting Deadline(s)/Hearing(s),, 100 Objection) by Bo Zou (sc, Dpty Clk) (Entered: 09/08/2020)
09/21/2020	108	OPINION AND ORDER by Magistrate Judge Jodi F Jayne ; denying 40 Motion to APPENDIX J

		Reassign Judge; denying 42 Motion for Miscellaneous Relief; denying 51 Motion to Quash; denying 54 Motion for Protective Order; denying 60 Motion to Compel; denying 60 Motion for Sanctions; denying 86 Motion to Compel; denying 86 Motion for Sanctions; denying 89 Motion for Contempt; granting in part 94 Motion for Protective Order; denying 18 Motion for Miscellaneous Relief (sdc, Dpty Clk) Modified on 9/21/2020 to replace document due to typographical errors (sdc, Dpty Clk). (Entered: 09/21/2020)
09/21/2020	109	NOTICE of Docket Entry Modification; Error: document filed with typographical errors; Correction: replace PDF with corrected document (Re: 108 Opinion and Order,,, Ruling on Motion to Reassign Judge,,, Ruling on Motion for Miscellaneous Relief,,, Ruling on Motion to Quash,,, Ruling on Motion for Protective Order,,, Ruling on Motion to Compel,,, Ruling on Motion for Sanctions,,,,,,, Ruling on Motion for Contempt,,,,,,,) (sdc, Dpty Clk) (Entered: 09/21/2020)
09/25/2020	110	MOTION to Stay by Bo Zou (sc, Dpty Clk) (Entered: 09/25/2020)
09/25/2020	111	OBJECTION to Magistrate Judge's Order (Re: 108 Opinion and Order, Ruling on Motion to Reassign Judge, Ruling on Motion for Miscellaneous Relief, Ruling on Motion to Quash, Ruling on Motion for Protective Order, Ruling on Motion to Compel, Ruling on Motion for Sanctions, Ruling on Motion for Contempt) by Bo Zou (sc, Dpty Clk) (Entered: 09/25/2020)
10/02/2020	112	MOTION for Sanctions by Linde Engineering North America, Inc. (Rector, Jonathan) (Entered: 10/02/2020)
10/02/2020	113	NOTICE of Errata (Re: 111 OBJECTION to Magistrate Judge's Order, 110 MOTION to Stay) by Bo Zou (sc, Dpty Clk) (Entered: 10/02/2020)
10/02/2020	114	Second OBJECTION to Magistrate Judge's Order (Re: 108 Opinion and Order,,, Ruling on Motion to Reassign Judge,,, Ruling on Motion for Miscellaneous Relief,,, Ruling on Motion to Quash,,, Ruling on Motion for Protective Order,,, Ruling on Motion to Compel,,, Ruling on Motion for Sanctions,,,,,,, Ruling on Motion for Contempt,,,) by Bo Zou (sc, Dpty Clk) (Entered: 10/02/2020)
10/05/2020	115	MINUTE ORDER by Judge John F Heil, III , referring motion(s) to Magistrate Jayne (Re: 112 MOTION for Sanctions) (This entry is the Official Order of the Court. No document is attached.) (pll, Dpty Clk) (Entered: 10/05/2020)
10/15/2020	116	NOTICE OF APPEAL to Circuit Court (Re: 108 Opinion and Order,,, Ruling on Motion to Reassign Judge,,, Ruling on Motion for Miscellaneous Relief,,, Ruling on Motion to Quash,,, Ruling on Motion for Protective Order,,, Ruling on Motion to Compel,,, Ruling on Motion for Sanctions,,,,,,, Ruling on Motion for Contempt,,,) by Bo Zou (sc, Dpty Clk) (Entered: 10/15/2020)
10/15/2020	117	MOTION for Leave to Appeal in Forma Pauperis (Re: 116 Notice of Appeal to Circuit Court,) by Bo Zou (sc, Dpty Clk) (Entered: 10/15/2020)
10/15/2020	118	PRELIMINARY RECORD Sent to Circuit Court (Re: 116 Notice of Appeal to Circuit Court,) (With attachments) (sc, Dpty Clk) (Additional attachment(s) added on 10/16/2020: # 3 Exhibit Opinion) (alg, Dpty Clk). (Additional attachment(s) added on 10/20/2020: # 4 document 114) (sc, Dpty Clk) (Entered: 10/15/2020)
10/16/2020		***Remark: <i>Copy of corrected preliminary record emailed to 10th Circuit and mailed to plaintiff</i> (Re: 118 Preliminary Record Sent) (alg, Dpty Clk) (Entered: 10/16/2020)
10/16/2020	119	NOTICE of Docket Entry Modification; Error: Opinion and Order missing from Preliminary Record; Correction: Opinion and Order added to preliminary record (Re: 118 Preliminary Record Sent) (alg, Dpty Clk) (Entered: 10/16/2020)

10/16/2020	120	RESPONSE in Opposition to Motion <i>for Stay for Magistrate Judge's Preliminary Injunction and Other Restriction in Discovery</i> (Re: 110 MOTION to Stay) by Linde Engineering North America, Inc. ; (Rector, Jonathan) (Entered: 10/16/2020)
10/16/2020	121	APPEAL NUMBER INFORMATION from Circuit Court assigning Case Number 20-5099 (#116) (Re: 116 Notice of Appeal to Circuit Court,) (alg, Dpty Clk) (Entered: 10/16/2020)
10/16/2020	122	RESPONSE in Opposition to Motion (<i>COMBINED</i>) (Re: 114 Second OBJECTION to Magistrate Judge's Order, 111 OBJECTION to Magistrate Judge's Order) by Linde Engineering North America, Inc. ; (Rector, Jonathan) (Entered: 10/16/2020)
10/19/2020	123	RESPONSE in Opposition to Motion (Re: 112 MOTION for Sanctions) by Bo Zou ; (sc, Dpty Clk) (Entered: 10/19/2020)
10/19/2020	124	REPLY to Response to Motion (Re: 110 MOTION to Stay) by Bo Zou ; (sc, Dpty Clk) (Entered: 10/19/2020)
10/19/2020	125	REPLY (Re: 114 Second OBJECTION to Magistrate Judge's Order, 111 OBJECTION to Magistrate Judge's Order) by Bo Zou (sc, Dpty Clk) (Entered: 10/20/2020)
10/20/2020		***Remark: <i>document # 114 forwarded to 10th Circuit to be included in preliminary record</i> (sc, Dpty Clk) (Entered: 10/20/2020)
10/26/2020	126	ORDER from Circuit Court <i>considering the appeal for summary dismissal, Briefing on the merits is suspended</i> (Re: 116 Notice of Appeal to Circuit Court,) (sc, Dpty Clk) (Entered: 10/26/2020)
10/30/2020	127	MOTION to Expedite Ruling <i>on Plaintiff's Motions</i> , MOTION to Waive <i>Expert Report</i> (sc, Dpty Clk) (Entered: 10/30/2020)
11/10/2020	128	Opposed MOTION to Stay <i>All Deadlines Pending Appeal and Defendant's Motion to Dismiss</i> by Linde Engineering North America, Inc. (Craft, Jessica) (Entered: 11/10/2020)
11/12/2020	129	Amended MOTION to Stay <i>All Deadlines Pending Plaintiffs Tenth Circuit Appeal and Ruling on Defendants Motion for Sanctions (OPPOSED)</i> by Linde Engineering North America, Inc. (Rector, Jonathan) (Entered: 11/12/2020)
11/13/2020	130	ORDER by Judge John F Heil, III : <i>pending 10th Circuit appeal</i> ; staying case; striking/terminating deadline(s)/Hearing(s); granting 128 Motion to Stay; granting 129 Motion to Stay (pll, Dpty Clk) (Entered: 11/13/2020)
11/16/2020	131	RESPONSE (Re: 129 Amended MOTION to Stay <i>All Deadlines Pending Plaintiffs Tenth Circuit Appeal and Ruling on Defendants Motion for Sanctions (OPPOSED)</i>) by Bo Zou (sc, Dpty Clk) (Entered: 11/16/2020)
11/16/2020	132	OBJECTION (Re: 130 Order, Staying Case, Striking/Terminating Deadline(s)/Hearing(s), Ruling on Motion to Stay,) by Bo Zou (sc, Dpty Clk) (Entered: 11/16/2020)
11/20/2020	133	RESPONSE in Opposition to Motion (Re: 127 MOTION to Expedite Ruling <i>on Plaintiff's Motions</i> MOTION to Waive <i>Expert Report</i>) by Linde Engineering North America, Inc. ; (Rector, Jonathan) (Entered: 11/20/2020)
11/23/2020	134	REPLY to Response to Motion (Re: 127 MOTION to Expedite Ruling <i>on Plaintiff's Motions</i> MOTION to Waive <i>Expert Report</i>) by Bo Zou ; (sc, Dpty Clk) Modified on 11/30/2020 to correct event (sc, Dpty Clk). (Entered: 11/24/2020)
11/30/2020		NOTICE of Docket Entry Modification; Error: wrong event selected (Response in Support of Motion); Correction: corrected event (Reply to Response to Motion) (Re: 134)

		Response in Support of Motion) (sc, Dpty Clk) (Entered: 11/30/2020)
12/02/2020	135	DECISION from Circuit Court dismissing the Appeal (Re: 116 Notice of Appeal to Circuit Court,) (sc, Dpty Clk) (Entered: 12/03/2020)
12/09/2020	136	REPORT AND RECOMMENDATION by Magistrate Judge Jodi F Jayne (Re: 112 MOTION for Sanctions) (kah, Chambers) (Entered: 12/09/2020)
12/14/2020	137	ORDER by Judge John F Heil, III ; denying 76 Objection to Magistrate Judge's Order (Re: 70 Order,, Ruling on Motion for Sanctions,, Ruling on Motion to Reconsider,, Ruling on Motion for Protective Order,, Ruling on Motion for Hearing,, Ruling on Motion for Miscellaneous Relief,, Ruling on Motion to Accelerate/Extend/Reset Hearing(s)/Deadline(s),, Ruling on Motion to Strike Document(s),,,) (pll, Dpty Clk) (Entered: 12/14/2020)
12/14/2020	138	ORDER by Judge John F Heil, III ; denying 111 Objection to Magistrate Judge's Order; denying 114 Objection to Magistrate Judge's Order (Re: 108 Opinion and Order,,, Ruling on Motion to Reassign Judge,,, Ruling on Motion for Miscellaneous Relief,, Ruling on Motion to Quash,,, Ruling on Motion for Protective Order,, Ruling on Motion to Compel,, Ruling on Motion for Sanctions,,,,,,,,, Ruling on Motion for Contempt,,,,,,,,,) (pll, Dpty Clk) (Entered: 12/14/2020)
12/14/2020	139	ORDER by Judge John F Heil, III ; denying 41 Motion for Hearing (pll, Dpty Clk) (Entered: 12/14/2020)
12/14/2020	140	ORDER by Judge John F Heil, III ; denying 97 Motion for Hearing; denying 97 Motion for Miscellaneous Relief (pll, Dpty Clk) (Entered: 12/14/2020)
12/14/2020	141	ORDER by Judge John F Heil, III ; denying 73 Motion to Change Venue (pll, Dpty Clk) (Entered: 12/14/2020)
12/14/2020	142	ORDER by Judge John F Heil, III ; denying 85 Motion to Reconsider (Re: 83 Minute Order,, Referring Motion(s),) (pll, Dpty Clk) (Entered: 12/14/2020)
12/14/2020	143	ORDER by Judge John F Heil, III ; denying 110 Motion to Stay (Re: 110 MOTION to Stay , 108 Opinion and Order,,, Ruling on Motion to Reassign Judge,,, Ruling on Motion for Miscellaneous Relief,, Ruling on Motion to Quash,,, Ruling on Motion for Protective Order,, Ruling on Motion to Compel,, Ruling on Motion for Sanctions,,,,,,,,, Ruling on Motion for Contempt,,,,,,,,,) (pll, Dpty Clk) (Entered: 12/14/2020)
12/14/2020	144	ORDER by Judge John F Heil, III ; denying 127 Motion to Expedite Ruling; denying 127 Motion to Waive (pll, Dpty Clk) (Entered: 12/14/2020)
12/23/2020	145	NOTICE of Change of Address by Bo Zou (ll, Dpty Clk) (Entered: 12/23/2020)
12/23/2020	146	OBJECTION to Report and Recommendation (Re: 136 REPORT AND RECOMMENDATION by Magistrate Judge Jodi F Jayne) by Bo Zou (ll, Dpty Clk) (Entered: 12/23/2020)
12/23/2020	147	OBJECTION to Report and Recommendation (Re: 136 REPORT AND RECOMMENDATION by Magistrate Judge Jodi F Jayne) by Linde Engineering North America, Inc. (Rector, Jonathan) (Entered: 12/23/2020)
01/11/2021	148	***Remark: Plaintiff submitted two documents for JFH - forwarded to Chambers (srt, Dpty Clk) (Entered: 01/11/2021)
01/13/2021	149	RESPONSE (Re: 146 Objection to Report and Recommendation) by Linde Engineering North America, Inc. (Rector, Jonathan) (Entered: 01/13/2021)
01/13/2021		***Remark: Petition for writ of Prohibition was filed in the 10th Circuit Court on

		01/13/2021 and assigned case number 21-5002 (ll, Dpty Clk) (Entered: 01/13/2021)
01/15/2021	150	LETTER from Circuit Court stating that the Petition for Writ of Certiorari has been filed (U.S. Supreme Court Case Number: 20-6882) (Re: 116 Notice of Appeal to Circuit Court,) (ll, Dpty Clk) (Entered: 01/15/2021)
01/21/2021	151	REPLY (Re: 147 Objection to Report and Recommendation) by Bo Zou (ll, Dpty Clk) (Entered: 01/22/2021)
01/26/2021	152	ERRATA/CORRECTION (Re: 151 Reply) by Bo Zou (ll, Dpty Clk) (Entered: 01/26/2021)
03/01/2021	153	ORDER from Circuit Court <i>Final order filed by Judges Tymkovich, Phillips and Carson denying petition for writ of prohibition and granting motion for leave to proceed in forma pauperis</i> (Re: Remark) (ll, Dpty Clk) (Entered: 03/01/2021)
03/22/2021	154	LETTER from Circuit Court stating that the Petition for Writ of Certiorari has been denied (Re: 116 Notice of Appeal to Circuit Court,) (sc, Dpty Clk) (Entered: 03/23/2021)
03/24/2021	155	MINUTE ORDER by Judge John F Heil, III : <i>Following the entry of the 10th Circuit order ruling on their pending motion for leave to appeal IFP ; finding as moot 117 Motion for Leave to Appeal in Forma Pauperis (Re: 153 Order from Circuit Court) (This entry is the Official Order of the Court. No document is attached.)</i> (pll, Dpty Clk) (Entered: 03/24/2021)

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