

SERVED NOVEMBER 21, 2008
U.S. DEPARTMENT OF TRANSPORTATION
OFFICE OF HEARINGS
WASHINGTON, D.C.

NOV 21 P 2:54

IN THE MATTER OF

SPECIALTY COATINGS, INC.,
Respondent.

Docket No. FMCSA-2007-28492
(Federal Motor Carrier Safety Administration)

**ADMINISTRATIVE LAW JUDGE'S PREHEARING
ORDER ESTABLISHING PROCEDURES**

This case has been assigned to me for the conduct of the hearing ordered by the Assistant Administrator on October 8, 2008. The proceeding is governed by the Rules of Practice for Motor Carrier, Broker, Freight Forwarder, and Hazardous Materials Proceedings. The full text of the Rules of Practice is found in 49 C.F.R. §§ 386.1 -- 386.72. In order to expedite the consideration and disposition of the issues, the following principles and procedures will be followed:

1. Appearances. Each party is required to send me, not later than 20 days from the date of this order, a notice of appearance of the person or persons who will represent that party during this proceeding. The notice should include the representative's name, mailing address, telephone number, telefax number, and e-mail address. The appearances should be kept current.

2. Filing. All documents, pleadings, etc. required to be filed should be sent to:

U.S. Department of Transportation
Docket Operations, M-30
Room W12-140
1200 New Jersey Ave., S.E.
Washington, D.C. 20590

A copy of the document should also be sent to me and to the representative of the other party to the proceeding.

3. Mail. Although the Rules of Practice provide for service of papers by mail, the punctuality of the U.S. Postal Service's delivery of mail to offices in the Department is uncertain. When you send a notice or other pleading to me, you should use a private delivery service and/or provide me with a courtesy copy by e-mail or telefax.¹ My mailing address is:

Isaac D. Benkin
Administrative Law Judge
Office of Hearings
Department of Transportation (M-20)
Room E12-320
1200 New Jersey Ave., S.E.
Washington, D.C. 20590

4. Time and place of the hearing. In their notices of appearance, the parties should advise me of their preferences as to the location and date of the hearing. I will take these preferences into account when I set the date and place of the hearing. Subject to the availability of facilities, I have tentatively set this case for hearing on March 3, 2009 in New York, N.Y.

5. Extensions of time. If you plan to seek an extension of the deadline for filing of a document or taking of an action, please first contact opposing counsel to find out whether there will be an objection to the request. Also, seek to secure agreement on an alternate date and time that is acceptable to all parties. I normally accept counsel's representation that there is no objection to a request for more time.

¹ My fax number is (202) 366-7536. My e-mail address is david.benkin@dot.gov.

6. Discovery. The parties should begin their discovery now. Discovery must be completed within 60 days from the date of this order. The deadline for completion of discovery may be extended only for good cause shown. If a party objects to one or more discovery requests, it may file a motion for a protective order, attaching or incorporating the discovery request or requests to which it objects. If a party is dissatisfied with a response to discovery, it may file a motion to compel, attaching or incorporating the discovery request to which its motion relates.

7. Exchange of witness lists and proposed exhibits. Not later than 30 days prior to the date of the hearing, each party will provide to the other a list of the witnesses it intends to call at the hearing, together with a brief statement of the subject matter on which each witness will testify. In the case of an expert witness, a resume of the witness's relevant education, training, experience, and other qualifications shall also be furnished. In addition, parties are required to exchange copies of documents they intend to offer in evidence. A copy of the proposed exhibits and witness lists should be sent to me at the same time it is served.

8. Settlement. I encourage the parties to settle the case if it is possible to do so. The parties should discuss the possibility of settlement as soon as possible after this order is received and again once discovery is completed. If a settlement is reached, the parties should notify me as soon as possible. I cannot remove the case from the hearing docket, however, until I have received notification that a written settlement agreement has been executed in accordance with § 386.22 of the Rules of Practice.

9. Contacts with the judge. I cannot and will not discuss the case with any party, or its representative, on an ex parte basis. If a party has non-substantive matters it wishes to discuss, please contact my attorney-advisor, Mr. Ira Leibowitz. His telephone number is (202) 366-2139.

IT IS SO ORDERED.



Isaac D. Benkin
Administrative Law Judge

Attachment-Service List

**SERVICE LIST
ORIGINAL AND ONE COPY**

U.S. Department of Transportation
Docket Operations, M-30 Room W12-140
West Building Ground Floor
1200 New Jersey Avenue, S.E.
Washington, D.C. 20590

ONE COPY

Daniel Blum, President
Specialty Coatings, Inc.
939 Lehigh Avenue
Union, NJ 07083
TEL: (888) 755-7361
FAX: (908) 810-9612

Anthony G. Lardieri, Esq.
Trial Attorney
Office of Chief Counsel (MC-CCE)
Federal Motor Carrier Safety Administration
Eastern Service Center
802 Cromwell Park Drive, Suite N
Glen Burnie, MD 21061
TEL: (443) 703-2248
FAX: (443) 703-2253

Robert Miller, Field Administrator
Federal Motor Carrier Safety Administration
Eastern Service Center
802 Cromwell Park Drive, Suite N
Glen Burnie, MD 21061

Christopher Rotondo
New Jersey Division Administrator
Federal Motor Carrier Safety Administration
840 Bear Tavern Road, Suite 310
West Trenton, NJ 08628

The Honorable Isaac D. Benkin
Administrative Law Judge
Office of Hearings, M-20
U.S. Department of Transportation
1200 New Jersey Avenue, S.E.
East Building Ground Floor, Room E12-320
Washington, D.C. 20590
TEL: (202) 366-2132 FAX: (202) 366-7536