

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

ROBERT JEAN, et al.)	CASE NO. 1:04 CV 1904
)	
Plaintiffs,)	JUDGE KATHLEEN O'MALLEY
)	
v.)	
)	
THE STANLEY WORKS, et al.)	MOTION TO COMPEL ARBITRATION
)	AND DISMISS THE FIRST AMENDED
Defendants.)	COMPLAINT AS TO CERTAIN
)	PLAINTIFFS
)	

Defendant The Stanley Works (“Stanley”) hereby moves, pursuant to the Federal Arbitration Act, 9 U.S.C. § 1, et seq., to compel the 93 self-styled “declaratory judgment plaintiffs” to pursue their claims pursuant to the contractually agreed ADR procedures in the parties’ agreements. There are 103 named individual plaintiffs in this action. Each of the 103 plaintiffs separately contracted with Mac and has an agreement setting forth the parties’ rights and obligations. Of the 103 plaintiffs, 93 have agreements with Mac that require all disputes to be submitted to ADR, including final, binding arbitration.¹

The First Amended Complaint lists 93 plaintiffs as “declaratory judgment plaintiffs” in Count I of the Complaint. In Count I of the Complaint, the declaratory judgment plaintiffs seek a declaration that the arbitration clauses in their agreements with Mac are not enforceable. As shown in the memorandum in support of this motion, which is incorporated herein, these efforts are without merit and the Court should compel each of these 93 plaintiffs to pursue their claims pursuant to the contractually agreed ADR procedures in their agreements with Mac. In addition, because all of the claims of these 93 plaintiffs are subject to the arbitration provisions in their

¹ The other ten named plaintiffs do not have arbitration provisions in their agreements with Mac. Concurrently with this motion, Mac is filing a motion to dismiss all of the claims of these additional ten plaintiffs.

agreements, the Court should dismiss all of the claims filed by these plaintiffs pursuant to 9 U.S.C. § 3.

Respectfully submitted,

s/ Thomas S. Kilbane
Thomas S. Kilbane (0005938)
tkilbane@ssd.com
Joseph C. Weinstein (0023504)
jweinstein@ssd.com
Steven A. Friedman (0060001)
sfriedman@ssd.com
SQUIRE, SANDERS & DEMPSEY L.L.P.
4900 Key Tower
127 Public Square
Cleveland, Ohio 44114-1304
(216) 479-8500 (telephone)
(216) 479-8780 (facsimile)

Attorneys for Defendant,
The Stanley Works

CERTIFICATE OF SERVICE

The foregoing Motion to Compel Arbitration and Dismiss the First Amended Complaint as to Certain Plaintiffs was filed electronically this 10th day of January, 2005. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system.

s/ Thomas S. Kilbane _____