

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

CATHERINE CONRAD,

Plaintiff,

v.

JAMES BENDEWALD, MARIA VEDRAL
and SILVER EDGE SYSTEMS SOFTWARE, INC.,

Defendants.

ORDER

11-cv-305-bbc

Plaintiff Catherine Conrad is proceeding on a claim that defendants infringed her copyright to the song “As Strong As I Can Be” by recording it without her permission or, in the alternative, violated an implied license by keeping the videotape when they declined to use it commercially. Two unrelated motions are before the court: (1) plaintiff’s motion for leave to amend her complaint to add Rodney Rigsby, who she says is co-owner of the copyright for the song; and (2) defendants Maria Vedral’s and Silver Edge Systems Software, Inc.’s motion for a protective order under Fed. R. Civ. P. 26(c).

Plaintiff’s motion for leave to amend her complaint will be granted because defendants do not argue that they will be prejudiced by the amendment. However, plaintiff

should understand that she cannot revive her dismissed claims for tortious interference with a prospective contract and violations of her right of publicity by filing an amended complaint. The case remains limited to plaintiff's copyright and breach of contract claims, as described in the September 9, 2011 order. Dkt. #30.

Defendants' motion requires more discussion. They say that plaintiff has been "repeatedly contacting" one of their customers, Deltek, Inc. Dfts.' Mot., dkt. #54, at 2. They identify two examples: (1) on November 9, plaintiff called Deltek's CEO, "informing him of the lawsuit and the issues therein"; and (2) on November 22, plaintiff emailed Deltek, requesting to depose the CEO. Defendants ask for an order "preventing [plaintiff] from making any further contact with Deltek , or any party associated therewith, in relation to this case." Id.

I agree with defendants that plaintiff has yet to show why Deltek has any relevant information related to this case. Previously, plaintiff sought leave to amend her complaint to add Deltek as a defendant, but I denied the motion because plaintiff failed to include any allegations showing that Deltek was involved in any acts of infringement. Dkt. #24, at 3. Later, plaintiff filed a motion to compel defendants to produce information about agreements between them and Deltek. The magistrate judge denied that motion because plaintiff failed to show that the agreements were relevant or would lead to the discovery of relevant evidence. Dkt. #53.

Plaintiff's response to defendants' motion only confirms that she has no reason to believe that Deltek can provide information that has any bearing on her claims. She says that defendants are seeking a protective order "because their clients have a lot to hide from Deltek" and she accuses defendants of violating Deltek's copyrights. However, it makes no difference to this lawsuit whether these allegations are true. This case is about plaintiff's copyright, not Deltek's.

Plaintiff says that defendants "do not have standing or any business asking for a protective order on a party they don't represent." However, district courts have inherent authority to address "a full range of litigation abuses." Chambers v. NASCO, Inc., 501 U.S. 32, 46 (1991). See also Judson Atkinson Candies, Inc. v. Latini-Hohberger Dhimantec, 529 F.3d 371, 386 (7th Cir. 2008). Certainly, repeatedly seeking discovery from an entity with no relevant information in an attempt to embarrass the opposing party is an example of an abuse of the litigation process.

That being said, I cannot grant defendants the relief they seek. Defendants want to stop plaintiff from having any "contact" with Deltek or "any party associated" with it. In essence, defendants are asking for a restraining order for a third party, which is beyond my authority to grant. Plaintiff has rights under the First Amendment to contact whomever she wishes, at least until that party shows that it is entitled to a restraining order. However, because plaintiff has shown that she is intent on pursuing discovery against Deltek despite

its lack of relevance to this case, I will issue a more limited order. Before plaintiff seeks any formal discovery from Deltek she must file notice of her intent to do so with this court and demonstrate that her request complies with the standard for obtaining discovery under Fed. R. Civ. P. 26. Until plaintiff obtains a subpoena under Fed. R. Civ. P. 45, Deltek is free to ignore any requests by plaintiff for information. If plaintiff seeks a subpoena for Deltek from another court without providing notice to this court, I will consider imposing sanctions, including dismissal of the case.

ORDER

IT IS ORDERED that

1. Plaintiff Catherine Conrad's motion for leave to amend her complaint to add Rodney Rigsby as a plaintiff, dkt. #33, is GRANTED. Because plaintiff has added no new factual allegations to her complaint, defendants may stand on their original answer if they wish, without waiving any rights.

2. The motion for a protective order filed by defendants Maria Vedral and Silver Edge Systems Software, Inc., dkt. #54, is GRANTED IN PART. Before plaintiffs seek a subpoena compelling Deltek, Inc. or any of its employees to provide discovery, including a deposition, they must notify this court of their intent to do so and demonstrate in writing that their discovery request complies with Fed. R. Civ. P. 26. Failure to comply with this

order may subject plaintiffs to sanctions from this court, including dismissal of this case.

Entered this 8th day of December, 2011.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge