

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

UNIEK, INC.,

Plaintiff,

v.

DOLLAR GENERAL CORPORATION,

Defendant.

ORDER

06-C-0311-C

At a scheduling hearing held by telephone in this case on March 16, 2007, I granted the parties' joint request to re-schedule the trial in this case to allow additional time for discovery. The trial is continued until Monday, July 16, 2007. The final pretrial conference will be held at 4:00 on Thursday, June 21, 2007; final pretrial conference filings are due no later than noon on June 18, 2007. Discovery is to close on April 15, 2007. The deadline for filing summary judgment motions is May 1, 2007; responsive briefs are due on May 16, 2007; and reply briefs on May 23, 2007.

Pursuant to Fed. R. Civ. P. 72(a), plaintiff had filed objections to the magistrate judge's order of March 2, 2007, requiring plaintiff to produce documents and information relating to customers other than defendant. After reviewing the parties' submissions on the

issue, I advised counsel of my conclusion that the magistrate judge's ruling on this point was erroneous. The elements of promissory estoppel under Wisconsin law do not require a showing of any reasonable expectation by plaintiff arising out of defendant's promise; the question is whether the promisor (defendant Dollar General Corporation) should reasonably expect that its promise would induce action or forbearance on plaintiff's part. Answering the latter question does not require evidence of plaintiff's business relationships with other retailers.

Defendant argued at the hearing that the magistrate judge's order was correct because the information sought would bear on plaintiff's reasonableness in assuming it had a contract with defendant and also because the issue was governed by Tennessee law. Neither of these arguments had been made previously to support the discovery request and I did not consider them in ruling on the objections to the magistrate judge's order.

ORDER

IT IS ORDERED that the parties' request to continue the trial of this case is GRANTED; the trial will begin on July 16, 2007. Counsel are to observe the interim deadlines set out in this order. FURTHER, IT IS ORDERED that plaintiff Uniek, Inc.'s objection to the order entered by the United States Magistrate Judge on March 2, 2007, is sustained as to the requirement that plaintiff produce documents related to the

reasonableness of its beliefs that the communications from defendant were a sufficient basis on which to proceed with production of picture frames, that is, documents demonstrating how it interacted with customers other than defendant.

Entered this 16th day of March, 2007.

BY THE COURT:
/s/
BARBARA B. CRABB
District Judge