

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

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UNITED STARS INDUSTRIES, INC.,

Plaintiff,

v.

PLASTECH ENGINEERED PRODUCTS,  
INC.,

Defendant.  
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ORDER

06-C-0349-C

This civil action for money damages is before the court on plaintiff United Stars Industries, Inc.'s motion for leave to file an amended complaint. Plaintiff seeks to add additional claims based on newly discovered facts and to "clarify and correct" certain allegations made in its original complaint. Defendant Plastech Engineered Products, Inc. opposes the motion, pointing out that the time for amendment passed months ago and that the cutoff for discovery is less than two months away.

Plaintiff offers no good reason for its untimely motion to amend. Instead, it says that it did not obtain the discovery materials that led to its request to amend until November 7, 2006, which was more than a month after the deadline set by the court for amending

pleadings without leave of court, and that it put off moving to amend because it was engaged in settlement negotiations with defendant in an attempt to resolve the dispute without incurring additional expenses. Plaintiff says that it did not understand that settlement negotiations had ended until January 3, 2007, when defendant filed a motion for partial summary judgment.

Plaintiff's dilemma is one of its own making. The court's schedule set specific dates for certain events to take place, such as amendments to the pleadings, filing of dispositive motions and the cutoff of discovery. It does not provide for any automatic extension of these deadlines if the parties choose to engage in settlement discussions. Plaintiff had fair warning of the need to observe the deadline for amending its complaint: in the provision on amendments to the pleadings, the court's pretrial order warns counsel that parties may not amend their pleadings after the deadline without leave of court, "which will be granted only upon a showing of good cause for the late amendment and lack of prejudice to the other parties." PPTC Order, dkt. #19, at 2.

Plaintiff has not shown good cause for the late amendment, only that it preferred to engage in settlement negotiations and let the deadlines go by. Although this court encourages settlement, it expects counsel to observe the deadlines set by the court.

Even if settlement negotiations did constitute good cause, however, plaintiff has failed to show that defendant would not be prejudiced by the late amendment. As plaintiff itself

describes the proposed amendments, they would add new claims and “clarify and correct” some of the factual allegations *after* defendant has filed a motion for partial summary judgment, directed to the allegations of the original complaint.

Plaintiff tries to minimize the effect on defendant by saying that discovery does not close until March 30. Since this is only six weeks away, it does not assuage my concerns that defendant would be prejudiced if significant aspects of the complaint were to be changed at this late date. Defendant’s motion for partial summary judgment would have to be jettisoned because it does not account for plaintiff’s clarifications and corrections and additional claims. Moreover, trial scheduled to begin one month after the close of discovery, defendant would be unable to obtain a decision on a revised motion for partial summary judgment before trial.

#### ORDER

IT IS ORDERED that plaintiff United Stars Industries, Inc.’s motion for leave to file an amended complaint is DENIED.

Entered this 14th day of February, 2007.

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

