

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

BIEWER-WISCONSIN SAWMILL, INC.,

Plaintiff,

v.

FREMONT INDUSTRIES, INC.,

Defendant.

ORDER

07-C-016-C

On January 10, 2007 plaintiff filed an 18-page, 116 paragraph (not counting discrete subparts) complaint against defendant, raising twelve causes of action, including breach of contract, fraud, negligence, negligent misrepresentation, strict liability and a statutory claim of deceptive trade practices. *See* dkt. 2. Before the court is defendant's motion for leave to serve additional interrogatories. *See* dkt. 20. The motion is granted and then some.

At the commencement of discovery, defendant expressed the need for 100 interrogatories. Plaintiff demurred, suggesting that the parties content themselves with the 25 allowed by Rule 33 and if those were not enough, to request additional interrogatories pursuant to Rule 26(b)(2)(A). *See* dkt. 17 at 2. Thereafter, the parties began discovery and appeared to be working well together. But then defendant asked for a quick response to its subsequent request for 50 interrogatories; plaintiff would not commit right way. Instead, plaintiff asked for time to consider this request after responding to the pending discovery requests on which it was working. Alarmed, defendant filed the instant motion, asking the court to force the issue.

In response, plaintiff alleges that by its count, defendant already has 71 interrogatories pending. Plaintiff claims that it would have responded to defendant's request for additional interrogatories had defendant been more patient; however part of that response would have been that defendant's requests were unreasonably cumulative or duplicative and obtainable from some other source that was more convenient, less burdensome or less expensive. *See* dkt. 23 at 5. Plaintiff asks this court to order defendant to reword and streamline its questions to bring them within the 25-interrogatory limit, or some reasonable number not to exceed 50, including subparts, for the entire discovery period.

Disputes like this make the court wonder if life would be less contentious as a JetBlue customer relations agent. It is incomprehensible how plaintiff could file such a long, detailed and demanding complaint, then with no discernible irony invoke the presumptive interrogatory limit of Rule 33. Competent litigators do not flyspeck each other in this fashion in lawsuits of this nature.

Having reviewed the entire file and having carefully considered the parties' submissions, It is ORDERED that defendant's motion is GRANTED. The new interrogatory limit for defendant is 150. That's one hundred and fifty.

Given plaintiff's view as to how much discovery is sufficient in the lawsuit it filed, plaintiff shall be limited to fifty interrogatories, including all subparts. If these are not enough, then plaintiff's attorneys may request additional interrogatories pursuant to Rule 26(b)(2)(A), unless defendant is gracious enough to accommodate a few extra questions without court intervention.

Pursuant to Rule 37(a)(4), plaintiff shall pay the reasonable expenses defendant incurred in making its motion. Defendant shall have until April 18, 2007 within which to submit to the court its itemized bill. Plaintiff may have until April 23, 2007 within which to object to the reasonableness of the amount claimed.

Entered this 13th day of April, 2007.

BY THE COURT:
/s/
STEPHEN L. CROCKER
Magistrate Judge