

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

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SUPERL SEQUOIA LIMITED,

Plaintiff,

v.

THE C.W. CARLSON COMPANY, INC.,  
a/k/a THE CARLSON COMPANY, INC.,

Defendant.  
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ORDER

07-cv-640-bbc

This case has been remanded from the Court of Appeals for the Seventh Circuit with instructions to recalculate the net judgment. On September 8, 2010, I instructed the parties to meet and confer on a recalculated net judgment that is consistent with the opinion of the court of appeals. I instructed them that, in the event they could not agree, they were to submit their own proposed calculations no later than September 30, 2010.

The parties were unable to agree on a recalculated judgment and have each submitted proposed recalculations. Dkt. ##152, 155. The parties' disagreements have led plaintiff Superl Sequoia Limited to file a motion to expedite discovery responses, dkt. #160, in which it contends that it needs discovery in order to respond to new factual and legal arguments

raised by defendant The C.W. Carlson Company's proposed recalculations. In particular, plaintiff objects to defendant's request for out-of-pocket costs plus profits for the material and labor associated with 102 fixtures that defendant produced. Defendant opposes the motion, contending that there is no need for discovery regarding these issues, let alone expedited discovery.

I will deny plaintiff's motion. Before trial, the parties conducted discovery related to the parties' communications about the 102 fixtures, the costs to produce the fixtures, including labor and materials, and the sale price for the fixtures. As defendant points out, plaintiff questioned several people about the 102 fixtures during depositions and at trial, and the record contains multiple trial exhibits related to the fixtures. Moreover, defendant's request for actual costs plus profit in producing the 102 fixtures is not a new argument. Defendant has consistently requested cost plus profit for all of the manufacturing and repair work it performed. I will decide whether defendant is entitled to costs plus profit on the 102 fixtures when I make a decision regarding the proper recalculation of the net judgment. However, further discovery on this issue is unnecessary at this time.

#### ORDER

IT IS ORDERED that plaintiff Superl Sequoia Limited's motion for expedited

discovery, dkt. #160, is DENIED.

Entered this 10th day of November, 2010.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge