

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

QUINCY M. NERI and RODNEY RIGSBY,

Plaintiffs,

v.

ORDER

11-cv-429-slc

MELINDA MONROE, STEVE LARSON,
ARCHITECTURAL BUILDING ARTS, INC.,
LESLEY SAGERS, FRITZ SCHOMBURG,
ERIC FERGUSON and
RURAL MUTUAL INSURANCE COMPANY,

Defendants.

This case is proceeding on plaintiffs Quincy Neri and Rodney Rigsby's claim for infringement of the copyright in glass artwork installed in the entryway of a condominium. The entryway was designed by defendant Architectural Building Arts, and photographs of the entryway, including the artwork, are used by the company in advertisements and promotional materials.

Currently before the court is plaintiff Neri's motion to compel discovery of financial information from defendants Architectural Building Arts, Melinda Monroe and Steve Larson, such as these defendants' corporate and personal tax returns, as well as information concerning the "sales and income derived from [defendants'] referrals from use of the artwork" *See* dkt. 59.

Defendants have stated that they derived no financial benefit from the artwork. This is an acceptable response to plaintiff's discovery request. Plaintiff disputes this response, as evidenced by her arguments in her motion to compel, and she is entitled to attempt to impeach defendants' response with her own evidence, including relevant evidence she obtains from defendants, if it exists. But it is extraordinarily unlikely that any of the documents plaintiff seeks in this motion would provide any information that would support plaintiff's economic

benefit theory, which relies mainly on intangibles. Further, the documents plaintiff seeks contain confidential business and tax information. The relevance and benefit to plaintiff of the requested documents is ethereal and speculative, while the burden on defendants of producing their confidential business and tax information in this situation is high. Accordingly, I am denying plaintiff's motion to compel pursuant to Fed. R. Civ. P. 26(b)(2)(C) (discovery may be limited when it is unreasonably cumulative or duplicative, unreasonably burdensome, or can be obtained from another less burdensome source).

Finally, a procedural observation: the motion to compel was signed only by plaintiff Neri, and not plaintiff Rigsby. In allowing Rigsby to intervene in this action, the court acknowledged that it would "make little sense to have two lawsuits with identical claims proceeding at the same time." Dkt. 54. By the same token, it makes little sense to allow two plaintiffs to litigate their claims separately in the same action unless there are particularized reasons to do so. Plaintiffs will not be allowed two kicks at the cat at every turn in this action; if they choose to file submissions individually in the future, they should be prepared to explain why doing so is necessary.

ORDER

It is ORDERED that plaintiff Quincy Neri's motion to compel, dkt. 59, is DENIED.

Entered this 17th day of May, 2012.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge