

IN THE UNITED STATES DISTRICT COURT
 EASTERN DISTRICT OF ARKANSAS
 JONESBORO DIVISION

G&K SERVICES, CO.,	*	
	*	
Plaintiff,	*	
	*	
	*	
	*	
vs.	*	No. 3:08cv0048 SWW
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	*	
	*	
BILL'S SUPER FOODS, INC. and	*	
BILLY ORR,	*	
	*	
Defendants.	*	

ORDER

Plaintiff G&K Services, Co. ("G&K") brings this action against defendants Bill's Super Foods, Inc. ("Bill's") and its President, Billy Orr, for breach of contract. Defendants, in turn, have counterclaimed against G&K, alleging claims which in large part arise from Bill's assertions that G&K engaged in the practice of charging "phantom" and "bogus" charges to invoices. Defendants also assert claims concerning quality of service.

By Order entered December 17, 2008 [doc.#40], this Court granted in part defendants' motion to compel [doc.#33] and for leave to amend their answer to G&K's third amended complaint and counterclaim [doc.#35]. At the conclusion of this Court's 12-page Order, the Court stated as follows:

This Court's Final Scheduling Order [doc.#15] establishes a discovery deadline of January 20, 2009 and a dispositive motions deadline of February 3, 2009. Given that the Court has granted in part defendants' motion to compel (which may necessitate additional discovery, including, as noted above, additional

depositions), the Court will extend the discovery and dispositive motions deadlines. The Court will issue an Order establishing new deadlines for conducting discovery and filing dispositive motions in due course.

[Footnote 2: It may be that the scheduled trial date of April 20, 2009 will have to be continued. The Court will address this issue in consulting with the parties concerning new deadlines for conducting discovery and filing dispositive motions.]

Given also that the Court has granted defendants' motion to amend their answer and counterclaim, and as the additional claims therein may result in additional summary judgment motions from G&K, the Court will deny without prejudice G&K's current motion for summary judgment [doc.#19] and its motion to deem admitted G&K's Local Rule 56.1 statement [doc.#28]. G&K may refile these motions in the same or revised form consistent with the soon-to-be established dispositive motions deadline.

[Footnote 3: Given the nature of this action, the Court would prefer a comprehensive motion for summary judgment that addresses all the issues G&K claims warrant summary judgment rather than piecemeal motions.]

On January 12, 2009, prior to this Court issuing new discovery and dispositive motions deadlines, G&K filed a second motion for summary judgment [doc.#44]. Bill's responded in opposition to G&K's motion on the merits but also stating that G&K's motion is in violation of this Court's December 17th Order and that Bill's has not had the opportunity to take depositions and still has not received the discovery responses that G&K was ordered to produce. G&K has filed a reply to Bill's response denying that it violated this Court's December 17th Order and stating that the issues it has raised in its renewed motion for summary judgment will not be altered by any additional discovery and will narrow the issues for trial.

Having considered the matter, the Court will extend the discovery deadline to and including March 16, 2009, and will extend the dispositive motions deadline to and including March 30, 2009. Following the conclusion of discovery, the parties, if they deem necessary, may

supplement their existing summary judgment pleadings no later than March 30, 2009, after which the motions will be ripe. The trial date of April 20, 2009, is hereby continued and will be reset following a ruling on G&K's motion for summary judgment [doc.#44].

IT IS SO ORDERED this 2nd day of February 2009.

/s/Susan Webber Wright

UNITED STATES DISTRICT JUDGE