

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF FLORIDA
3 MIAMI DIVISION
4 Case 07-21221-CIV-ALTONAGA

5 RENEE BLASZKOWSKI,
6 AMY HOLLUB and
7 PATRICIA DAVIS, individually
8 and on behalf of others
9 similarly situated,

10 Plaintiffs,

11 MIAMI, FLORIDA

12 vs.

13 APRIL 4, 2008

14 MARS, INC., et al.,

15 Defendants.

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17 TRANSCRIPT OF MOTION TO DISMISS
18 BEFORE THE CECILIA M. ALTONAGA,
19 UNITED STATES DISTRICT JUDGE

20 APPEARANCES:

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1 can definitely proceed with discovery at the same time. I
2 don't think it's going to be -- I know as a plaintiff, and I
3 said this before, I have no interest in looking at massive
4 quantities of documents. There will be certain things we need
5 to ask for. I've been careful and I have worked with many
6 defendants. We worked things out with Kroger. We're going to
7 continue to do that. I just think this is premature. We're
8 not there.

9 I have alleged the defendants in the Complaint that we
10 just had a long argument about and there's not going to be a
11 case where there's not defendants in the case. I need to be
12 able to go forward with certain things and to delay things
13 after there has been a stay in discovery for almost a year and
14 say "Well, wait a minute. Let's give the defendants discovery
15 before we give the plaintiffs discovery" just puts the Federal
16 Rules, flips it on its ear, in my opinion. It's unfair,
17 quantumly so.

18 You know, we will be happy to give them a list. We
19 have provided mandatory disclosure. Many of the defendants
20 haven't. I'm standing here. I'll give them the brands in
21 mandatory disclosure.

22 MS. LICKO: Your Honor, we propose that we try to work
23 with plaintiffs' counsel on that. I was involved with some of
24 the jurisdictional discovery issues. If we can't work it out,
25 we'd like the opportunity to bring it back to you.

1 THE COURT: You certainly can.

2 I am not favorably inclined to a bifurcation of
3 discovery. I do it in other purported class actions where,
4 perhaps, you might have one named representative suing on
5 behalf of a class. But here we have a number of plaintiffs
6 and, as I said, if I don't certify a class, all plaintiffs and
7 all defendants will probably still be before me. It's not a
8 case that would probably go away because I didn't certify a
9 class because it's a sizable enough group that there are a
10 number of claims that will still proceed.

11 So I'm not, and in light of the history of this case,
12 with the way I have tied the plaintiffs' hands in their ability
13 to gather facts and information, I'm not inclined to keep that
14 in place any longer than I have already.

15 I thank everyone for coming in this morning and for
16 the excellent work in briefing these issues and in your oral
17 presentations.

18 You all have a good day.

19 MS. MacIVOR: Thank you, Your Honor.

20 MS. LICKO: Thank you.

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