

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

PAMELA GREEN

CIVIL ACTION

v.

NO. 17-2101

DOLLAR GENERAL AND
ABC INSURANCE COMPANY

SECTION "F"

ORDER AND REASONS

Before the Court is Dollar General's motion for summary judgment. For the reasons that follow, the motion is DENIED without prejudice.

Pamela Green visited a Dollar General store in Violet, Louisiana on the evening of March 5, 2016. When she opened the door to the store freezer to retrieve some popsicles, an insulated plastic half-gallon jug called the Igloo Legend Beverage Cooler fell from its perch above the freezer onto Green's head. The contact allegedly caused a cervical herniation at the C-5/6 level. The insulated jug weighed 1.1 lbs. That fact is not in dispute.

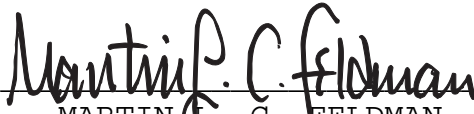
Green sued DG Louisiana, LLC (Dollar General) in the 34th Judicial District Court in St. Bernard Parish on January 27, 2017. The lawsuit was removed to this Court on March 13, 2017. On March 5, 2018, Dollar General filed a motion for summary judgment. It supplemented its motion on May 15, 2018 after additional discovery

had been conducted. The plaintiff alleged that Mindy McBride, a Dollar General employee and key witness, had been coerced before her deposition by her former manager, Mike Wiltz, and that further discovery was needed to assess the accuracy of her testimony and develop a credible record. She submitted copies of text messages from Wiltz to McBride in which he instructs her to "say whatever it is you have to say to cover your ass." The plaintiff has since subpoenaed McBride, but she failed to appear at the deposition. The plaintiff has filed a motion to compel and enforce the subpoena against McBride, which has been referred to Magistrate Judge Wilkinson.

The Court cannot consider the motion for summary judgment on the merits until the plaintiff can depose McBride, one of the only employees present the afternoon of the accident. The seriousness of the allegations against of McBride's testimony make a determination of summary judgment inappropriate at this time.

Accordingly, IT IS ORDERED: that the motion for summary judgment is hereby DENIED without prejudice. IT IS FURTHER ORDERED: that the pretrial conference, scheduled for June 7, 2018, and the trial, scheduled for June 25, 2018, is hereby CONTINUED, to be reset at a scheduling conference with the Court.

New Orleans, Louisiana, June 4, 2018


MARTIN L. C. FELDMAN
UNITED STATES DISTRICT JUDGE