## IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF MISSOURI WESTERN DIVISION

)

In re: BISPHENOL-A (BPA) POLYCARBONATE PLASTIC PRODUCTS LIABILITY LITIGATION

JENNIFER MOELLERING,

Plaintiff,

٧.

HANDI-CRAFT COMPANY,

Defendant.

MDL No. 1967 Master Case No. 08-1967-MD-W-ODS

Case No. 08-1000-CV-W-ODS

## ORDER AND OPINION DENYING DEFENDANT HANDI-CRAFT'S MOTION FOR SUMMARY JUDGMENT REGARDING JENNIFER MOELLERING'S CLAIMS

Pending is Defendant Handi-Craft's Motion for Summary Judgment with respect to Jennifer Moellering's claims. The Court concludes there are disputed issues of material fact, so the motion (Doc. # 848) is denied.

A detailed recitation of the Court's view of the facts is unnecessary because it will ultimately be the jury's findings that are important. The facts, viewed in the light most favorably to Moellering, suggest that she bought one or two bottles manufactured by Handi-Craft but did not like them because they had small parts that were difficult to clean. Rather than dispose of the bottles, she stored them for possible use in emergencies. She still possessed the bottles when she learned of the controversy involving BPA, at which time she threw them out. Handi-Craft contends these facts demonstrate Moellering obtained all the value she expected from the bottles and thus suffered no damages.

Moellering's motivations and expectations are not conclusively established by the Record. Similarly, the Record does not conclusively establish that Moellering received

"full value" for the bottles she purchased. These issues will have to be resolved by a jury.

IT IS SO ORDERED.

/s/ Ortrie D. Smith ORTRIE D. SMITH, SENIOR JUDGE UNITED STATES DISTRICT COURT

DATE: July 23, 2012