IN THE UNITED STATES DISTRICT COURT FOR THE

DISTRICT OF NEBRASKA

CONTINENTAL HOLDINGS, INC., successor to CONTINENTAL CAN COMPANY, INC.,	)	
Plaintiff,	)	8:09CV362
v.	)	
CROWN HOLDINGS INCORPORATED, CROWN CORK & SEAL COMPANY, INC., and CROWN BEVERAGE PACKAGING, INC.,	)	ORDER
Defendants.	)	

This matter is before the Court on defendants Crown Holdings Incorporated, Crown Cork & Seal Company, Inc. ("Crown Cork") and Crown Beverage Packaging, Inc.'s motion to stay (Filing No. 11), motion for extension of time to file answer (Filing No. 14), and motion to extend time to submit Rule 26 Report (Filing No. 15). Upon review of the motions, the parties' briefs and evidentiary submissions, and the applicable law, the Court finds defendants' motion to stay should be denied, and defendants' motions for extension of time to file an answer and to submit a Rule 26 report should be granted.

BACKGROUND

Plaintiff Continental Holdings, Inc., successor to Continental Can Company, Inc., ("Continental") brought this declaratory judgment action pursuant to Neb. Rev. Stat. § 25-21,149 to determine the parties' rights and obligations under a Stock Purchase Agreement ("SPA") entered into by and between Continental and Crown Cork in March 1990. Specifically,

plaintiff seeks a determination of its obligation to indemnify defendants for certain occupational exposure claims under the SPA.

DISCUSSION

1. Motion to Stay (Filing No. 11)

As the result of separate litigation, plaintiff and Crown Cork are involved in an arbitration that is currently pending in Pennsylvania. At issue in the arbitration is plaintiff's obligation to indemnify Crown Cork for certain environmental claims under the SPA. Defendants argue there is substantial overlap between this litigation and the arbitration, and therefore, the Court should stay this action to avoid the burden of duplicative proceedings and inconsistent adjudications.

The parties no longer dispute that the claims in this litigation are non-arbitrable claims. After reviewing the complaint and the parties' evidentiary submissions, the Court finds it is not appropriate to stay this action pending the outcome of the parties' arbitration. Accordingly, defendants' motion to stay will be denied.

2. Other Pending Motions (Filing Nos. 14, 15)

Defendants' motion for extension of time to file an answer or other response to the amended complaint will be granted. Defendants shall file a response to the amended complaint on or before February 23, 2010.

Defendants' motion for extension of time to submit a Rule 26 Report will be granted. Defendants shall submit a Rule 26 Report on or before March 1, 2010. Accordingly,

IT IS ORDERED:

1) Defendants' motion to stay (Filing No. 11) is denied;

2) Defendants' motion for extension of time to file answer (Filing No. 14) is granted. Defendants shall file a response to the amended complaint on or before February 23, 2010;

3) Defendants' motion for extension of time to submit Rule 26 Report (Filing No. 15) is granted. Defendants shall submit a Rule 26 Report on or before March 1, 2010.

DATED this 12th day of February, 2010.

BY THE COURT:

/s/ Lyle E. Strom

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LYLE E. STROM, Senior Judge
United States District Court