

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

CODY FOSTER & CO., INC., a
Nebraska corporation;

Plaintiff,

vs.

URBAN OUTFITTERS, INC., a
Pennsylvania Corporation;
ANTHROPOLOGIE, INC., a Pennsylvania
Corporation; and URBN UK LIMITED, a
United Kingdom Corporation;

Defendants.

8:14CV80

MEMORANDUM AND ORDER

This matter is before the court on Defendants' motion to compel the depositions of artists Lisa Congdon and Cassandra Smith (Filing No. 89). Upon consideration of the parties' oral arguments and respective briefs the court finds the motion should be denied.

"A request for discovery should be considered relevant if there is any possibility that the information sought may be relevant to the subject matter of the action". [Gladfelter v. Wal-Mart Stores, Inc., 162 F.R.D. 589, 590 \(D. Neb. 1995\)](#). However, the scope of discovery is not unlimited. Some threshold showing of relevance must be made before parties are required to produce a variety of information which does not "reasonably bear upon the issues in the case." [Hofer v. Mack Trucks, Inc., 981 F.2d 377, 380 \(8th Cir. 1992\)](#).

The artists in question apparently brought copyright claims against Cody Foster alleging it infringed on the copyright of certain ornament designs. Defendants seek to depose the artists with respect to those claims.

Based on the information currently before the court, I find the artists cannot provide relevant information regarding the motivation for Defendants' cancelling its

contracts with Plaintiff, nor is the information relevant to any claim for damages. Accordingly, the depositions should not go forward and the motion to compel the depositions is denied.¹

Dated this 11th day of May, 2015

BY THE COURT:

s/ Cheryl R. Zwart
United States Magistrate Judge

¹ The court will rule separately on Defendants' request to compel the production of certain documents, also included in Filing No. 89.

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