

NOT FOR PUBLICATION

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

THEMI GUERRIERO
*Guardian Ad Litem of A.G., a
minor of six years, et al.,*

Plaintiffs,

v.

**SANFORD L.P., a Division of
Newell Rubbermaid, et al.,**

Defendants.

Civ. No. 12-5246 (KM)

MEMORANDUM and ORDER

This matter comes before the court on the appeal of defendants Newell Rubbermaid Inc. and Sanford, L.P. (collectively “Newell”) from a non-dispositive oral opinion (“Op.”, ECF no. 119) and order (“Order”, ECF no. 116) of Magistrate Judge Michael A. Hammer. That Order granted the application of defendant Carolina Precision Plastics (“CPP”) to file an answer to the crossclaims of Newell out of time. Newell has filed a brief on appeal (ECF no. 120-1); CPP has filed a response (ECF no. 125)); and Newell has filed a reply (ECF no. 126). The matter is fully briefed and ripe for decision.

The District Court will reverse a Magistrate Judge’s decision on a non-dispositive motion only if it is “clearly erroneous or contrary to law.” Fed. R. Civ. P. 72(a); L. Civ. R. 72.1(c)(1)(A). “This deferential standard is especially appropriate where the Magistrate Judge has managed this case from the outset and developed a thorough knowledge of the proceedings.” *Lithuanian Commerce Corp., Ltd. v. Sara Lee Hosiery*, 177 F.R.D. 205, 214 (D.N.J. 1997) (internal quotations omitted).

In this case, the standard of review matters little. I find myself in complete agreement with the well-reasoned oral Opinion of Judge Hammer. He conscientiously reviewed the parties' submissions and appropriately applied the factors of *Pioneer Inv. Servs. Co. v. Brunswick Assocs.*, 507 U.S. 380 (1993) to the facts of the case, with which he was intimately familiar.

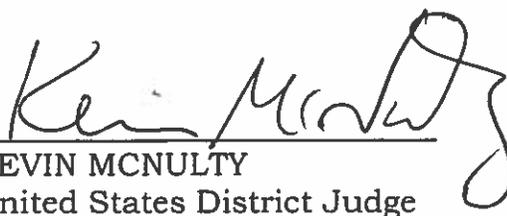
I therefore affirm the Order for the reasons expressed in Judge Hammer's Opinion (ECF no. 119), which is deemed to be incorporated herein.

I add only the following. Fed. R. Civ. P. 6, like all of the federal rules, will be applied in a practical manner, to bypass pleading technicalities and get to the merits. *See* Fed. R. Civ. P. 1. There is little doubt that CPP erred substantially here, but not in a manner that would have benefited CPP or afforded it a litigation advantage. CPP has appeared in this action and participated in discovery. The Magistrate Judge rightly noted that this matter has been litigated, and discovery has proceeded, on the basis of the claims that have been asserted. It would be inappropriate and inequitable now to award relief that would amount to a default judgment on the crossclaims.

ORDER

Therefore, IT IS this 31st day of July, 2017

ORDERED that the appeal (ECF no. 120) is DENIED and that the Order of Magistrate Judge Hammer, entered on May 1, 2017 (ECF no. 116), is AFFIRMED.



KEVIN MCNULTY
United States District Judge