

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

SEVEN Z ENTERPRISES, INC.,	:	CIVIL ACTION NO. 2:17-CV-740
<i>et al.</i> ,	:	
	:	(Chief Judge Conner)
Plaintiffs	:	
	:	
v.	:	
	:	
GIANT EAGLE, INC.,	:	
	:	
Defendant	:	

ORDER

AND NOW, this 23rd day of December, 2019, upon consideration of the motion (Doc. 179) for partial judgment on the pleadings pursuant to Federal Rule of Civil Procedure 12(c) filed by defendant and counterclaim plaintiff Giant Eagle, Inc. (“Giant Eagle”), and for the reasons stated in the accompanying memorandum, it is hereby ORDERED that:

1. Giant Eagle’s motion (Doc. 179) for partial judgment on the pleadings is GRANTED in part and DENIED in part as follows:
 - a. The motion is GRANTED as to Giant Eagle’s supplemental counterclaim Counts 7, 8, and 9, (Doc. 150 ¶¶ 166-99), to the extent set forth in the accompanying memorandum.
 - b. The motion is DENIED in all other respects.
2. The Clerk of Court shall enter judgment in Giant Eagle’s favor on Giant Eagle’s supplemental counterclaim Count 7. Plaintiff and counterclaim defendant Mon Valley Foods, Inc. (“Mon Valley”) must, within a reasonable time, SPECIFICALLY PERFORM in accordance with paragraph 23 of the Fisher Heights sublease agreement, (Doc. 79-36 ¶ 23), regarding the option to purchase.

3. It is ORDERED and DECLARED that the Retailer's Agreement (Doc. 79-5) between Mon Valley and Giant Eagle for the Fisher Heights and Finleyville stores is TERMINATED.
4. The Clerk of Court shall enter declaratory judgment in favor of Giant Eagle on Giant Eagle's supplemental counterclaim Count 8 in accordance with paragraph 3 above.
5. It is ORDERED and DECLARED that the following contracts between Mon Valley and Giant Eagle are TERMINATED: the Finleyville sublease agreement (Doc. 150-1); the Uniontown Retailer's Agreement (Doc. 150-2); and the Uniontown sublease agreement (Doc. 150-3).
6. The Clerk of Court shall enter declaratory judgment in favor of Giant Eagle on Giant Eagle's supplemental counterclaim Count 9 in accordance with paragraph 5 above.
7. The entry of judgment referenced above in paragraphs 2, 4, and 6 concerning Giant Eagle's supplemental counterclaim Counts 7, 8, and 9 shall be final judgment pursuant to Federal Rule of Civil Procedure 54(b). After considering the requisite factors provided by the Third Circuit Court of Appeals, see Berkeley Inv. Grp., Ltd. v. Colkitt, 455 F.3d 195, 203 (3d Cir. 2006), the court finds that there is no just reason for delay, see FED. R. CIV. P. 54(b).

/S/ CHRISTOPHER C. CONNER
Christopher C. Conner, Chief Judge
United States District Court
Middle District of Pennsylvania