

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF DELAWARE

JUDGE PETER J. WALSH

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WILMINGTON, DE 19801  
(302) 252-2925

October 31, 2003

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Attorneys for Plaintiff,  
HomePlace of America, Inc.  
on behalf of all affiliated  
Debtors

**Re: HomePlace of America, Inc., on behalf of all affiliated  
Debtors v. Home Works, Inc.  
Adv. Proc. No. 02-05880**

Dear Counsel:

This is with respect to Plaintiff's motion for summary  
judgment (Doc. # 5).

Plaintiff's motion is based upon the purported  
undisputed facts resulting from Defendant's failure to timely

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Attorneys for Defendant,  
Home Works, Inc.

respond to Plaintiff's request for admissions. While it seems apparent that Defendant has been derelict in responding to Plaintiff's discovery, I am not inclined to grant the summary judgment motion under these circumstances. Cases should be disposed of on the merits wherever practicable, Gross v. Stereo Component Systems, Inc., 700 F.2d 120, 122 (3d Cir.1983), and since Defendant has now replied to the discovery, I believe we should proceed to disposition on the merits.

Plaintiff's summary judgment motion will therefore be denied.

Very truly yours,

Peter J. Walsh

PJW:ipm

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF DELAWARE**

In re:	)	Chapter 11
	)	
WACCAMAW'S HOMEPLACE, et al. <sup>1</sup> ,	)	Case No. 01-0181(PJW)
	)	(Jointly Administered)
Debtors.	)	
<hr/>		
	)	
HOMEPLACE OF AMERICA, INC.,	)	
on behalf of all affiliated	)	
Debtors,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Adv. Proc. No. 02-05880(PJW)
	)	
HOME WORKS, INC.,	)	
	)	
Defendant.	)	

**ORDER**

For the reasons stated in the Court's letter ruling of this date, Plaintiff's motion for summary judgment (Doc. # 5) is **DENIED**.

Dated: October 31, 2003

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Peter J. Walsh  
United States Bankruptcy Judge

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<sup>1</sup> The Debtors are the following entities: Waccamaw's HomePlace; HomePlace of America, Inc.; HomePlace Management, Inc.; HomePlace Stores, Inc.; and HomePlace Stores Two, Inc.

