

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 07-11859

FILED U.S. COURT OF APPEALS ELEVENTH CIRCUIT DEC 18, 2007 THOMAS K. KAHN CLERK

D. C. Docket No. 04-03006 CV-CC-1

JANICE WEIN,

Plaintiff-Appellant,

versus

ENCORE TICKETS, INC., THOMAS
EDWARDS, JOHN DOE, 1, JOHN DOE, 2,

Defendants-Appellees.

Appeal from the United States District Court
for the Northern District of Georgia

(December 18, 2007)

Before ANDERSON, BLACK and HILL, Circuit Judges.

PER CURIAM:

After oral argument and careful consideration, we conclude for the reasons fully discussed at oral argument that the judgment of the district court is due to be affirmed. The only claims asserted in either the district court or the initial brief on appeal are a conversion claim and a contract claim. We agree with the district court that plaintiff has failed to make out a conversion claim. Plaintiff's own testimony establishes that the 2003 badge was given to her brother and Barnett, without restricting same to their personal use. Defendant's acquisition of the same therefore was not unauthorized. Even if defendant failed to appropriately advise the ultimate user about compliance with tournament rules, that would amount at most to mere negligence, and not rise to the level of conversion.

With respect to plaintiff's contract claim, we agree with the district court that the record establishes that there was no contract between plaintiff and defendant. Plaintiff has wholly failed to create a genuine issue of fact that the parties dealing with defendant acted on her behalf as her agent. Indeed, plaintiff's admissions in her deposition belie same.

Plaintiff's procedural arguments are rejected without need for discussion.

AFFIRMED.