

Thompson v. Rizzitelli, 10 CV 71 (JBA)

ELECTRONIC ENDORSEMENT GRANTING PLAINTIFF'S EMERGENCY MOTION FOR PROTECTIVE ORDER (Dkt. #165), BUT FOR DIFFERENT REASONS THAN THOSE RAISED IN PLAINTIFF'S MOTION.

Familiarity is presumed with the multiple rulings filed in this vastly over-litigated lawsuit (see, e.g., Dkts. ##25, 40, 52, 67, 72, 74, 118, 120, 133, 146; see also Dkts. ##8, 31, 41, 50, 110, 161 (referring most of this lawsuit suit to this Magistrate Judge)).

Of particular importance to the pending motion is this Magistrate Judge's Ruling on Defendants' Motions for Sanctions, filed December 14, 2011 (Dkt. #146)[\"December 2011 Ruling\"], which held in pertinent part:

Plaintiff is given **one last opportunity** to comply with his obligations to the Court. **PLAINTIFF SHALL FORWARD TO DEFENSE COUNSEL, BY E-MAIL AND BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, FULL AND COMPLETE RESPONSES TO ALL DISCOVERY REQUESTS ON OR BEFORE DECEMBER 22, 2011. . . . PLAINTIFF IS REQUIRED TO ATTEND A SECOND DEPOSITION, AT WHICH HE WILL ANSWER FULLY AND COMPLETELY ALL RELEVANT QUESTIONS POSED TO HIM, WITH SUCH DEPOSITION TO BE HELD ON OR BEFORE JANUARY 20, 2012. THERE SHALL BE NO FURTHER DISCOVERY IN THIS LAWSUIT OTHER THAN SPECIFIED IN THIS RULING. IF PLAINTIFF FAILS TO COMPLY WITH THIS RULING, THIS LAWSUIT WILL BE DISMISSED.**

(Id. at 5-6)(emphasis in original)(footnote omitted).

Thereafter, the parties filed multiple filings regarding plaintiff's response to the December 2011 Ruling (see, e.g., Dkts. ##147, 149, 152, 157-58), in addition to which, on December 29, 2011, defendants filed their Motion for Order of Dismissal (Dkt. #151)[\"Defendant's Dismissal Motion\"], in which they allege that plaintiff has failed to comply with the December Ruling; plaintiff has objected to that motion (Dkt. #163), and the briefing on that motion is not complete yet as a reply brief, if any, is outstanding.

In plaintiff's Emergency Motion for Order of Protection (Dkt. #165), he objects to this continued deposition, scheduled for January 17, 2012, as he argues that there is insufficient cause to hold a second deposition. (Id., Brief at 4-6). Defendant Rizzitelli appropriately argues in his brief in opposition, filed January 11, 2012 (Dkt. #166), that the second deposition already was ordered by this Court.<sup>1</sup>

Because a ruling on defendants' Dismissal Motion could have a direct bearing on the scope of the continued deposition, it makes little sense to hold the continued deposition at this time. Therefore, plaintiff's Emergency Motion for Order of Protection (Dkt. #165) is **granted in part, to the extent that the deposition scheduled for January 17, 2012 is hereby postponed, to be scheduled at a later date pursuant to Court Order.**

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<sup>1</sup>As such, the \"standing\" issue raised by plaintiff in his reply brief, filed today (Dkt. #168) has no merit.