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November 9, 2020

BY EMAIL ONLY
amy_constantine@ctd.uscourts.gov
The Honorable Michael P. Shea
United States District Court - District of Connecticut
450 Main Street
Hartford, CT 06103

RE: Neelu Pal v. Robert Cipolla, et al. - Docket No. 3:20-cv-00013(MPS)

Dear Judge Shea:

On behalf of the defendants Mark Canepari, Arnault Baker, Brandon Harris, John Lynch, Anna Tornello, and Town of Wilton (hereinafter the "Wilton defendants"), the undersigned submits this letter regarding the nature of discovery disputes pursuant to the Court's discovery protocols. Pursuant to Rule 37(a)(1) of the Federal Rules of Civil Procedure and Local Rule 37(a), the parties conferred and made a good faith effort to eliminate or reduce the area of controversy. The parties informed chambers of the discovery dispute via telephone on November 4, 2020.[1] The disputes between the parties will be addressed below.

Discovery Issues

1. In her motion for protective order plaintiff accurately indicates that she was served with Interrogatories and Requests for Production on June 11, 2020 [Doc. 63]. In accordance with Rule 33 of the Federal Rules of Civil Procedure, the Wilton defendants served plaintiff with 25 Interrogatories. In accordance with Rule 34 of the Federal Rules of Civil Procedure, the Wilton defendants served plaintiff with 15 requests for production. Plaintiff then inaccurately indicates that she served the Wilton defendants with her responses and objections.

Wilton Defendants' Position: On August 13, 2020, the undersigned sent plaintiff a letter, via email, indicating that the Wilton defendants had not received her responses to the discovery served on June 11, 2020, and requested that plaintiff provide the responses at her earliest convenience. Plaintiff did not respond. On October 19, 2020, counsel for the Wilton defendants sent a follow-up email to plaintiff and co-defense counsel indicating that they had not received plaintiff's discovery responses and requesting that all parties share their availability to contact chambers to report the overdue discovery. Plaintiff responded on October 20, 2020, indicated that responses were sent in early July[2], and advised that she would be available for a conference on

[1] Prior to the telephone conference with the Court, the plaintiff filed a motion for protective order and motion to compel [Doc. 63], which the Wilton defendants will address herein.
[2] Co-defendants have represented to the parties and Court that they have not received plaintiff's responses to the Wilton defendants' discovery requests or their requests for admission. Plaintiff should be ordered to turn over responses to discovery propounded by any of the defendants to all defendants.

October 29 and 30. That same day, counsel for the undersigned responded that they had double checked their files and had not received the discovery compliance. Counsel offered plaintiff the opportunity to re-send the discovery in order to obviate the need to raise the discovery dispute with the Court. On October 27, 2020, plaintiff responded that she had already sent the responses and intimated that a call to chambers was necessary.

Hours before the scheduled call, plaintiff filed a motion for protective order [Doc. 63]. Therein, plaintiff included a redacted copy of her discovery responses, which were purportedly served on or about July 18, 2020 [Doc. 63-2], but never received by the Wilton defendants. As such, the Wilton defendants do not have an unredacted copy of plaintiff's discovery responses and have never received document production from her. Plaintiff could have obviated this discovery dispute by sending the Wilton defendants unredacted discovery responses and her document production when counsel advised they had not received it. As such, the Wilton defendants respectfully request that plaintiff be ordered to provide them an unredacted copy of her interrogatory responses and her document production as well as responses to the requests for admission served by co-defendants so that they may proceed with the defense of this case and obtain responses to discovery that was served nearly five months ago.

2. In plaintiff's purported cover letter of July 18, 2020 [Doc. 63-2, at p. 1], she indicates that she will not provide DCF authorizations allowing the Wilton defendants to obtain relevant Connecticut and New York DCF records related to their investigation of plaintiff following her interaction with the defendant officers on or about May 5, 2018.

Wilton Defendants' Position: Plaintiff has put DCF involvement at issue by claiming that the Wilton defendants made a false DCF report, that the report was transferred to the New York Department of Children and Families for further investigation, and that the report was determined unfounded following investigation. Doc. 53, at ¶ 97-102. Thus, DCF involvement is eminently relevant to the parties claims and defenses, such that plaintiff must be ordered to provide sufficient releases to allow the Wilton defendant to obtain relevant records from the Connecticut and New York Departments of Children and Families, and, if necessary, a release to allow DCF employees to testify regarding their investigation.

3. Plaintiff filed a motion to compel responses to her Fourth Amended Complaint [Doc. 63].

Wilton Defendants' Position: Plaintiff's motion to compel is baseless. Although previously warned that "no further amendments shall be allowed absent a persuasive showing of good cause" [Doc. 44], plaintiff filed a Fourth Amended Complaint on October 12, 2020 [Doc. 53], without permission from the Court or defendants. On October 16, 2020, the Wilton defendants timely objected to the Fourth Amended Complaint and renewed their previously filed motion for more definite statement. See Doc. 55. The outcome of the Wilton defendants' motion may or may not narrow the issues that need to be answered, and they should not be forced to answer the Fourth Amended Complaint until their pending motion [Doc. 55] is decided.

4. Plaintiff claims she was not allowed to participate in the Rule 26 scheduling process.

Wilton Defendants' Position: The defendants provided the plaintiff an opportunity to participate in preparing a joint Rule 26(f) report, but the parties were unable to agree on deadlines. On March 11, 2020, alternative versions of a Rule 26(f) report were filed with the Court. See Doc. 28. No further action was taken.

Very truly yours,

JAMES N. TALLBERG

cc: Neelu Pal (via email); Attorney Michael J. Carreira, Esq. (via email)