

Maura Snell

From: Elizabeth Willhite
Sent: Tuesday, June 18, 2024 10:58 AM
To: steadman@whiteriverlawyers.com; bbrannen@brannen-loftus.com;
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Cc: Richard Windish; Maura Snell
Subject: Depositions and Discovery (Civil Suit)

Morning Gentlemen,

Over 7 days ago we forwarded three deposition notices with subpoena duces tecum for your clients. Barney has responded he is available on August 8, but he is unavailable on August 9. He further stated he would need to confer with his client, we continue to wait for his client's response. Todd had not responded. Dan has not responded. We generally avoid noticing depositions and prefer to work with parties to schedule these events at a time and place that is convenient for all parties, however we cannot proceed in this manner here since our initial requests for deposition dates and discovery continue to be summarily ignored. As such, we are informing all parties of our intent to hold the dates we noticed. We will agree to release them for alternative dates, only after all parties agree to alternative dates. We hope all parties begin to engage meaningfully so that we may proceed in a more collaborative manner.

On a similar note, discovery is past due for all defendants (originally due 10/29/23), and we have been more than cooperative with your clients on this issue. In fact, when your clients failed to respond and argued (via email) that the discovery sought is for items we already have, we responded with our own production. This was voluntary, as no party has served formal discovery requests. Since our production has been made (on 4/12/24), we have received nothing from any party. On March 25, 2024, we emailed the parties requesting a discovery conference. Barney was the only party to respond to this request and his response stated there was no need for a conference in his opinion, he would make himself available, but he wanted to confer with Todd. We never heard from Todd. We responded back to this email thread on April 4, 2024 with a list of specific discovery items we are seeking, and requested deposition dates. This email was met with silence from all parties. On April 12, 2024, we sent a Rule 26 letter to all parties. At the close of the letter we informed all parties that if no response was received by May 12, 2024, we would seek court intervention. It has now been 60 days since this letter was sent, and all parties continue to delay, avoid, or refuse to comply with these discovery requests. We are informing all parties today that Plaintiff will file a motion to compel seeking fees and costs, and request a discovery conference within the next 5 business days. Please send us your availability so that we may schedule this conference, if we do not hear from a party we will note that in our filing.

Further, prior to noticing depositions we attempted to collaboratively schedule these events with all parties. We sent an email to all counsel on April 4, 2024 requesting dates, and no one responded. We are going to request a status conference to address this issue, and all other pending discovery issues.

Best regards,

Elizabeth A. Willhite | Attorney at Law

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