



needs of the case, the amount in controversy, the parties' resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving the issues."<sup>5</sup>

These factors are retained in revised Fed. R. Civ. P. 26(b)(1), reflecting "their original place in defining the scope of discovery."<sup>6</sup> "Restoring proportionality" is the touchstone of revised Rule 26(b)(1)'s scope of discovery provisions.<sup>7</sup>

Plaintiff moves to take the deposition of Oswald Companies Chief Executive Officer, Joseph DuBois, and the deposition of Oswald Companies' Marketing Director, Christine Schmitz. Plaintiff Gallagher estimates that each deposition would take 2 hours, for a total of 4 additional hours of depositions.

Plaintiff has already had an opportunity to take the deposition of Oswald Companies' CEO, Robert Klonk. Plaintiff Gallagher has also deposed Defendant Kyle Anthony who now works at Oswald. Further, Plaintiff has conducted nine depositions and issued over 30 subpoenas. Given this context, this Court finds that the burden or expense of conducting two additional non-party depositions outweighs its likely benefits in this case.

### **Conclusion**

For the reasons above, this Court **DENIES** Plaintiff's motion to exceed deposition time limits.

IT IS SO ORDERED.

Dated: May 24, 2016

s/ James S. Gwin  
JAMES S. GWIN  
UNITED STATES DISTRICT JUDGE

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<sup>5</sup> Surles, 474 F.3d at 305 (quoting former Fed. R. Civ. P. 26(b)(2)(C)(iii)).

<sup>6</sup> Fed. R. Civ. P. 26 advisory committee's note to 2015 amendment.

<sup>7</sup> Id.