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WEST HAVEN LUMBER v. SENTRY CONSTRUCTION CORP.—
CONCURRENCE

LAVINE, J., concurring. In the usual circumstance, counsel's failure to find the time—even in the midst of a busy schedule—to attend a court-ordered deposition prior to trial would create significant concerns about the fairness of the proceedings. The order requiring that a deposition be scheduled at “a mutually convenient time” cannot plausibly be read as a request of counsel to schedule a deposition only if a convenient time could be found. The only reasonable reading was to *require* counsel to make herself available for a deposition. Nonetheless, I agree that the court's denial of the motions filed by the defendant, Sentry Construction Corporation, for a continuance and a nonsuit was not an abuse of discretion, given the particular facts of this case. This decision should not, however, be read to countenance self-serving interpretations of court orders.

For the foregoing reasons, I respectfully concur in the majority opinion.
