

**IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF ARKANSAS  
WESTERN DIVISION**

**DONOVAN FORD, CARRIE GALAN, JAMES  
GILMER, JUDY MILLS, and BILLIE J.  
NORRIS, on behalf of themselves and others  
similarly situated**

**PLAINTIFFS**

v.

**CASE NO. 4:08-CV-00509 BSM**

**TOWNSENDS OF ARKANSAS, INC. AND  
TOWNSENDS, INC.**

**DEFENDANTS**

**ORDER**

On November 5, 2010, the plaintiffs noticed the deposition of Coleman Townsend, majority shareholder and former CEO of Townsends, Inc. The defendants responded, refusing to produce Mr. Townsend for deposition. The parties state that they have conferred and are unable to come to a resolution. Instead, they agreed to file cross-motions to settle the issue. Plaintiffs move to compel the deposition of Coleman Townsend or in the alternative for an order in limine to prevent certain testimony regarding Mr. Townsend from being presented at trial. [Doc. No. 232]. Defendants move for a protective order to prevent the deposition of Coleman Townsend. [Doc. No. 230].

Plaintiffs' motion to compel the deposition of Mr. Townsend is denied without prejudice. Before plaintiffs may depose Mr. Townsend, they must show that they have exhausted all less burdensome methods of obtaining the information they need. *See,*

*Walmart Stores, Inc v. Vidalakis*, 2007 U.S. Dist. LEXIS at \*4 (W.D. Ark. Dec. 28, 2007).

Plaintiffs' motion for an order in limine is granted. If Mr. Townsend is not deposed, the defendants may not put on evidences as to what he knew of should have known, or as to any discussions with Mr. Townsend. Of course, if the plaintiffs ultimately depose Mr. Townsend, defendants will no longer be precluded from offering the relevant evidence at trial.

Defendants' motion for a protective order is denied as moot because at this time Mr. Townsend is not compelled to submit to a deposition.

IT IS SO ORDERED this 8th day of December, 2010.

  
UNITED STATES DISTRICT JUDGE