

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

AMERICAN HEALTH UNDERWRITERS, INC., ET AL.

PLAINTIFFS

v.

Case No. 4:11-MC-0043 JMM

GOLDEN RULE INSURANCE COMPANY

DEFENDANT

ORDER

Pending before the Court is Steve Uhrynowycz's Motion to Terminate Deposition (#1). For the reasons stated below, the motion is granted.

The deponent, Steve Uhrynowycz is the "Deputy Receiver" of Imerica Life and Health Insurance Company ("Imerica"), appointed by Jay Bradford, Arkansas Insurance Commissioner, in his capacity as the Receiver of Imerica, and by the Circuit Court of Pulaski County, Arkansas, in the matter *Bradford v. Imerica Life and Health Ins. Co.*, Circuit Court of Pulaski County, Arkansas, No. CV 09-7305.

Plaintiffs subpoenaed Uhrynowycz to give testimony in the above styled case which is currently pending in the Eastern District of the United States District Court in Texas as Case No. 4:10-cv-199. The United States District Court for the Eastern District of Arkansas issued the subpoena and the deposition took place on two separate days in Little Rock, Arkansas.

Uhrynowycz filed the Motion to Terminate contending that Plaintiffs' counsel has refused to accept termination of the deposition even though Uhrynowycz's deposition has exceeded the seven-hour limit under Rule 30(d) of the Federal Rules of Civil Procedure and there had been no stipulation or order extending the seven-hour time limit. Plaintiffs do not

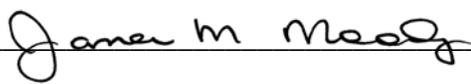
dispute that Uhrynowycz's deposition lasted more than seven hours; however, Plaintiffs contend that Uhrynowycz withheld substantial information responsive to the subpoena duces tecum citing attorney-client and work product privileges which caused Plaintiffs to spend an inordinate amount of time deposing Uhrynowycz about his role as an attorney versus his role as a Deputy Receiver. Plaintiffs moved to have this Court order Uhrynowycz to produce documents he withheld from production in an un-redacted form and to appear for the conclusion of his deposition for a reasonable period of time which would be no more than four hours.

After reviewing the timely written objection to the portions of the subpoena pursuant to Rule 45(e)(2)(B) of the Federal Rules of Civil Procedure and the transcript of the deposition, the Court finds that Uhrynowycz has complied with the subpoena issued by Plaintiffs and the deposition is hereby terminated.

In addition, the Court finds that (1) as Deputy Receiver Uhrynowycz's assertions of privilege are valid. Rule 612 of the Federal Rules of Evidence does not require disclosure of documents in a privilege log which were used by witnesses to prepare for deposition testimony when the documents were not used in a manner which waived the privilege and the attorney-client privilege extends to Uhrynowycz's communication involving the administration of Imerica.

The motion to terminate is granted with each party to bear its own costs.

IT IS SO ORDERED THIS 2 day of February, 2012.



UNITED STATES DISTRICT COURT JUDGE