

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
FORT SMITH DIVISION

MELODY L. LEE as
Personal Representative of the
Estate of John Andrew Morton

PLAINTIFF

V.

NO. 2:08-cv-02115

BOBBY A. OVERBEY and
BRENT HIGGINS TRUCKING, INC.

DEFENDANT

ORDER

Before the court is the Plaintiff's Motion for Leave to Prohibit Defendant's from taking more than 10 depositions and to quash (Doc. 105) filed September 14, 2009 and the Plaintiff's Motion for Leave to take more than 10 depositions (Doc. 111) filed September 17, 2009.

A hearing was conducted on September 27, 2009 and having considered the motions, briefs and arguments of counsel the court finds that the Defendant did not have permission of court to schedule more than 10 depositions and the following notices are quashed: Sarah Beth Morton and Alicia Morton set for 10/13/2009; Danny Guthrie, Laura Guthrie and Betty Jo Lee set for 10/28/2009 and Bryan Morton set for 10/29/2009. The court will not quash the remaining notices as set forth in Exhibit 2 (Doc. 112-2) but the Defendant is instructed that any desire to cancel any of the remaining notices shall be made within 7 days. The Plaintiff's Motion to Prohibit Defendant from taking more than 10 deposition and to quash is Granted in Part and Denied in Part.

The court having considered the arguments of counsel finds that it is necessary for the Defendant to be allowed to have an additional 10 depositions and that the total number of depositions that the Defendant shall be allowed to take under the Rules shall be 20 and, as

limited by this order, the Defendant's Motion for Leave to take additional depositions is GRANTED.

The Defendant is further advised, again, that the Decedent's Motion for Sanctions against Dr. Stan Smith (Doc. 30) is still pending before the court and that the defendant shall provide to the court a list of questions that Dr. Smith did not or could not answer at his last deposition within ten days or the court will consider the motion against Dr. Smith as MOOT.

IT IS SO ORDERED this September 28, 2009.

/s/ J. Marschewski

HONORABLE JAMES R. MARSCHEWSKI
United States Magistrate Judge