

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Magistrate Judge Kathleen M. Tafoya**

Civil Action No. 09-cv-00669-ZLW-KMT

FTR

Date: December 16, 2009

Debra Brown, Deputy Clerk

DOUGLAS E. GILMAN

Donna E. Dell'Olio
Bradley J. Sherman

Plaintiffs.

v.

TARGET CORPORATION,

Elizabeth Suzanne McKelvey

Defendants.

COURTROOM MINUTES / MINUTE ORDER

MOTIONS HEARING

Court in Session: 9:32 a.m.

Court calls case. Appearance by counsel. Also present is Joanna Roman paralegal to Mr. Lessmann.

Opening statements by the Court regarding the pending motions.

ORDERED: Plaintiff's Second MOTION to Compel Discovery [57] is **GRANTED**. The Court is advised that all the documents have been produced. The request for sanctions remains pending.

Plaintiff's MOTION to Compel Production of Documents Wrongfully Withheld [47] filed August 05, 2009] and Plaintiff's [53] MOTION to Amend/Correct/Modify for Discovery Regarding Spoliation of Evidence at issue.

Argument by Counsel.

Defendant's Exhibit "A" received.

Defendant's Exhibit "B" received.

Court in Recess: 10:48 a.m.

Court in Session: 11:00 a.m.

Defendant's [60] MOTION to Compel Discovery from Plaintiff re: medical records and MOTION for Protective Order to Quash or Limit Plaintiff's Rule 30(b)(6) Notice at issue.

Argument by Counsel.

Plaintiff's [52] MOTION to Amend [21] Scheduling Order to Extend the Discovery Cut-off Deadline to January 15, 2010 at issue.
Argument by Counsel.

Court in Recess: 12:08 p.m.

Court in Session: 1:37 p.m.

Continued argument by Counsel.
Plaintiff's Exhibit "1" received.

ORDERED: Plaintiff's Request for Sanctions with respect to Second MOTION to Compel Discovery [57] is **DENIED**.

ORDERED: Plaintiff's [53] MOTION to Amend/Correct/Modify for Discovery Regarding Spoliation of Evidence is **GRANTED** to the extent it requests discovery into reports mentioned in the Gilman Affidavit [Doc. 53, Ex. 2] and related matters. Defendant required to produce a Rule 30(b)(6) witness as discussed herein.

ORDERED: Defendant's [60] MOTION to Compel Discovery from Plaintiff re: medical records is **HELD IN ABEYANCE**. Plaintiff shall submit plaintiff's medical records for "in camera" review to be delivered to Magistrate Judge Tafoya's Chambers on or before **December 23, 2009**.

ORDERED: Defendant's [60] MOTION for Protective Order is **GRANTED**. The Notice of Deposition F.R.C.P. 30(b)(6) [Doc. 60-2] will be amended as follows:

Paragraph 1. In the first sentence before the period, the following phrase is added: "in which store 1501 was specifically and particularly part of the compilation data during the years 2007 and 2008, but shall not include reports which not break down data by specific store location."

Paragraph 5. The phrase "in store 1501" shall be added between the words "persons" and "receiving."

Paragraph 9. The following phrase shall be added before the period: "which could have been applied to the plaintiff at store 1501 during years 2007 and 2008."

ORDERED: Plaintiff's MOTION to Compel Production of Documents Wrongfully Withheld [47] filed August 05, 2009] is **DENIED** as to Requests for Production 5 and 14. The motion is **DENIED as moot**, without prejudice as to the remaining requests to the extend the topics will be covered as part of the Court's ruling on Doc. 53 and 60.

ORDERED: The Court will not assess sanctions in connection with any of the motions addressed.

ORDERED: Plaintiff's [52] MOTION to Amend [21] Scheduling Order to Extend the Discovery Cut-off Deadline is **GRANTED**. Discovery extended to **February 26, 2010** for limited purposes stated on the record. Dispositive motion deadline extended to **March 31, 2010**.

ORDERED: Plaintiff shall be allowed to propound additional Request for Production of Documents to Defendant following the Rule 30(b)(6) deposition addressed today. The Defendant shall respond to the requests within fifteen (15) days of receipt.

ORDERED: **FINAL PRETRIAL CONFERENCE** reset for **May 27, 2010 at 9:00 a.m. in Courtroom C-201, Second Floor, of the Byron Rogers U.S. Courthouse, 1929 Stout Street, Denver, Colorado.**

Court in recess: 2:25 p.m.

Total In-Court Time 3:12; hearing concluded

*To obtain a transcript of this proceeding, please contact Avery Woods Reporting at (303) 825-6119.