

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
MAGISTRATE JUDGE NINA Y. WANG

Civil Actions: 14-cv-00870-MSK-NYW
Courtroom Deputy: Laura Galera

Date: February 27, 2015
FTR: NYW COURTROOM C-205

Parties

Counsel

DOMINGO RUIZ,
MICHAEL BRYANT,

John Newman

Plaintiffs,

v.

ACT FAST DELIVERY OF COLORADO, INC.,
POWERFORCE OF COLORADO, INC.,

Stacy Dian Mueller

Defendants,

COURTROOM MINUTES/MINUTE ORDER

MOTION HEARING

Court in Session: 8:36 a.m. Hearing delayed for appearance of Plaintiffs' counsel.

Appearance of counsel. Counsel for Defendants appeared; counsel for Plaintiffs did not appear on time. Counsel for Plaintiffs arrives at 8:45, citing confusion with the courtroom for delay.

Argument held on Defendants' Motion for Sanctions for Plaintiffs' Failure to Appear for Depositions [51] filed November 5, 2014.

The court finds that under the standard set out by Fed. R. Civ. P. 37 and the case law of this District, the Motion for Sanctions is unwarranted. Defense counsel stated on the record that no motion to compel was filed with respect to these depositions prior to the filing of the Motion for Sanctions and no tangible costs, such as court reporter fees, were expended. Under *International Brothers of Teamsters, Airline Div. v. Frontier Airlines*, 2013 WL 627149 (D. Colo. Feb. 19, 2013) (J. Mix), sanctions are implicitly dependent on the court's examination of the moving party's good faith efforts to obtain discovery without court action and to the extent to which the

response was substantially justified. The court finds that there was no motion to compel file, and thus no order compelling the depositions.

Court advises Plaintiffs' counsel he must file a separate Motion for Sanctions if he wishes to proceed on that matter pursuant to D.C.COLO.LCivR 7.1(d), but indicates that the court is not inclined to entertain a Motion for Sanctions from Plaintiffs related to this issue of depositions.

Court further advises Plaintiffs' counsel that under the Local Rules, sur-replies are not permitted as a matter of course, but a party must obtain leave from the court to file one.

Discussion regarding what additional discovery is anticipated.

For the reasons stated on the record, it is

ORDERED: Defendants' Motion for Sanctions for Plaintiffs' Failure to Appear for Depositions [51] is DENIED.

ORDERED: Should any discovery disputes arise, counsel are ordered to contact chambers by telephone to set up an informal discovery conference. Counsel are not allowed to file any pleadings regarding discovery disputes unless otherwise directed to do so by the Court.

ORDERED: Counsel shall exchange the names and availability of the remaining deponents no later than March 6, 2015. Counsel will also specifically identify to the other specific documents that are alleged to be relevant and not produced.

Court in Recess: 9:09 a.m.

Hearing concluded.

Total time in Court: 00:33