

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

Civil Action No: 14-mc-00194-LTB-KMT  
Courtroom Deputy: Brandy Simmons

Date: March 9, 2015  
FTR: Courtroom C-201

---

Parties:

POLIQUIN PERFORMANCE CENTER 2, LLC,

Plaintiff,

v.

ANDRÉ BENOIT,

Defendant.

Counsel:

Bradley Freedberg

No Appearance

---

**COURTROOM MINUTES**

---

**MOTION HEARING**

**1:38 p.m. Court in session.**

Court calls case. Appearances of counsel. Mr. Leonard H. MacPhee appears on behalf of Charles Poliquin.

**ORDERED:** Poliquin Performance Center 2, LLC's Motion to Compel Charles Poliquin's Compliance with Subpoena *Duces Tecum* and Deposition Subpoena [1] is GRANTED in PART and DENIED in PART.

The court recognizes that the dates by which Mr. Poliquin shall produce documents and deposition testimony in Colorado pursuant to this Order are outside the fact discovery cut-off date set in Rhode Island. However, this court finds no prejudice to either side by allowing the discovery since expert discovery is ongoing in the Rhode Island case and the dates set for discovery from Mr. Poliquin will not affect any substantive hearing or trial dates set by the Rhode Island court. This court does not perceive of any effect on the evidentiary admissibility of the matters produced in Colorado solely by virtue of the production being a few days, and perhaps up to a few weeks, outside the overall fact discovery window. Further, Mr. Poliquin waives any objection to production based solely on the fact discovery cut-off date set forth in the Rhode Island case.

**ORDERED:** Mr. Poliquin shall produce the requested documents as listed in Exhibit C to the Motion [Doc. 1-3] pages 6 and 7, on or before midnight on March 30, 2015. Responsive documents shall be served electronically on both Mr. Freedman and on Attorney Craig M. Scott, Plaintiff's counsel of record in the Rhode Island matter.

**ORDERED:** The deposition of Mr. Poliquin must occur between March 30 and April 8, 2015, unless Plaintiff, in its sole discretion, elects to proceed with Mr. Poliquin's deposition during the time period of April 25 through May 1, 2015. Mr. Poliquin and his counsel agree to remain available for deposition during both time periods at the convenience of Plaintiff until April 2, 2015. On or before April 2, 2015, if Plaintiff elects to conduct the deposition during the April 25-May 1 time period, it shall notify Mr. Poliquin in writing. If no written notice is provided, Mr. Poliquin will not be required to leave the April 25-May 1 time period open for potential deposition. Notice of the Deposition shall be provided, however, service of a deposition subpoena shall not be required once the parties have agreed on a deposition date for Mr. Poliquin

**ORDERED:** All requests for fees and costs on both sides are DENIED.

**2:34 p.m.      Court in recess.**

Hearing concluded.

Total in-court time 00:56

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