

3:13-cv-49 (AVC) March 26th, 2014. The defendants' motion to compel the deposition of the plaintiff's expert witnesses is GRANTED.

This is an action for damages in which the plaintiff, Robert Amantea, asserts that the defendants are liable for injuries he sustained in a trip and fall at their store.

The defendants argue that "[w]hile Plaintiff is entitled to use whatever qualified testifying expert he chooses – including treating physicians – he cannot foist upon Defendants an unreasonable expense in order for Defendants to depose those experts." Specifically, the defendants "respectfully submit that Plaintiff should be compelled to produce for a deposition Drs. Foster and Zimmering, and that a reasonable rate to reimburse these orthopedic surgeons be fixed at \$400 per hour, not the \$1,500 per hour they are demanding."

The plaintiff responds that "[t]he depositions in this case of Drs. Zimmering and Foster should not be compelled because plaintiff's experts, his treating physicians, have made themselves available for deposition in this case but such depositions were cancelled by defendants." As to the fees, the plaintiff argues that "the doctors' fees of \$1,500 per hour are reasonable" but if the "fees are deemed unreasonable by the Court, plaintiff urges that a reasonable rate for such testimony is \$750 per hour."

"Unless manifest injustice would result, the court must require that the party seeking discovery . . . pay the expert a reasonable fee for time spent in responding to discovery . . . and . . . pay the other party a fair portion of the fees and expenses it reasonably incurred in obtaining the expert's facts and opinions." Fed. R. Civ. P 26(b)(4)(E).

The court concludes that the \$1,500 per hour rate for the deposition is too high. See e.g. Flis v. Conn., Gastroenterology Consultants, P.C., 2007 WL 2244110 at \*2 (Conn. Super. Ct. July 13, 2007) (finding "[a] fee approaching \$1,200 an hour is simply too high" and concluding that the doctors "should be paid \$700 per hour. . ."). Here, a more reasonable rate to reimburse the orthopedic surgeons is \$750 per hour and, therefore, the motion to compel with respect to these depositions is GRANTED.

SO ORDERED.

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/s/  
Alfred V. Covello, U.S.D.J.