

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION**

ROBERT E. TARDIF, JR., as Trustee for Jason
Yerk,

Plaintiff,

-vs-

Case No. 2:09-cv-537-FtM-29SPC

PEOPLE for the ETHICAL TREATMENT of
ANIMALS, a Virginia not-for-profit corporation,

Defendant.

ORDER

This matter comes before the Court on the Plaintiff, Robert E. Tardif, Jr. as trustee for Jason Yerk's Motion to Postpone Hearing on Defendant's Motion for Protective Order (Doc. #108) filed on April 5, 2011. On March 29, 2011, this Court directed the Parties to appear before the undersigned for a hearing. The purpose of said hearing was to argue the issues presented to the Court in the Plaintiff's Counsel's Motion to conduct depositions via video-conference. The Defendant filed a Response in Opposition to the depositions and moved for a protective order preventing the depositions from going forward. The Plaintiff now moves the Court to postpone the hearing because he states he was given only eight (8) days to file a response rather than ten (10) days.

The Plaintiff's Motion lacks merit. The Court at its discretion may order an expedited response to a protective order. See M.D. Fla. Local Rule 3.01(e); Furthermore, the Plaintiff's 3.01(g) certification is deficient. The Plaintiff states that he attempted to contact the Defense Counsel but was unable to speak with either Atty, Hall or Atty. Hirschkop. Pursuant to M.D. Fla.

Local Rule 3.01(g), the Plaintiff must actually confer with the Plaintiff and must make a good faith effort to resolve the issues presented in the Motion. Merely stating that counsel attempted to confer is insufficient. M.D. Fla. Local Rule 3.01(g). The Plaintiff has been cautioned on several occasions—(Doc. # 83) filed on February 4, 2011, and (Doc. # 96) filed on February 22, 2011— that he must comply with Local Rule 3.01(g), or face having his request denied, yet the Plaintiff continues to ignore the Court’s warnings. Therefore, the Motion is due to be denied. The hearing set for April 6, 2011, is due to proceed as scheduled.

Accordingly, it is now

ORDERED:

The Plaintiff Robert E. Tardif, Jr. As trustee for Jason Yerk’s Motion to Postpone Hearing on Defendant’s for Protective Order (Doc. #108) is **DENIED**. The parties shall participate in a hearing before the Honorable Sheri Polster Chappell on April 6, 2011, at 10:30 a.m.

DONE AND ORDERED at Fort Myers, Florida, this 5th day of April, 2011.


SHERI POLSTER CHAPPELL
UNITED STATES MAGISTRATE JUDGE

Copies: All Parties of Record