UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. 08-60554-CIV-UNGARO

LITTLE LEAGUE BASEBALL, INC.,
     Plaintiff,

v.

JAY A. KAPLAN,
     Defendant.

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OMNIBUS ORDER

THIS CAUSE is before the Court upon Defendant's Motion for Continuence [sic] with Cause to Answer Summary Judgment, filed November 14, 2008 (D.E. 50). Plaintiff filed a response in opposition on November 17, 2008 (D.E. 51), to which Defendant then replied on November 19, 2008 (D.E. 52). Also before the Court is Plaintiff's Motion for Entry of Protective Order, filed December 8, 2008 (D.E. 54).

THE COURT has considered the Motions, the pertinent portions of the record and is otherwise fully advised in the premises. By way of background, on October 20, 2008, Plaintiff filed a Motion for Summary Judgment (D.E. 40). Defendant did not file a timely response, and on November 7, 2008, the Court ordered Defendant to show cause in writing by November 13, 2008, why he failed to file a timely response (D.E. 48). Defendant did not file his response; rather, on November 14, 2008, he filed the instant Motion for Continuence [sic] with Cause to Answer Summary Judgment pursuant to Fed. R. Civ. P. 56(f). (D.E. 50.) Defendant states, *inter alia,* that "[d]iscovery has not been taken to the pertinent issues including but not limited to trademark." Defendant also references his appeal to the Eleventh Circuit Court of Appeals regarding this Court's dismissal of his counterclaims for religious discrimination, libel and

slander, and states that discovery is necessary for these claims as well. Plaintiff responded to Defendant's Motion, arguing that it should be denied because Plaintiff's Motion for Summary Judgment should not be delayed where the discovery requested by Defendant under Rule 56(f) is unlikely to produce a genuine issue of material fact.

Plaintiff then moved this Court for entry of a protective order precluding Defendant from taking five separate noticed depositions. (D.E. 54.) First, Plaintiff argues that it is entitled to a protective order precluding the deposition of Mr. Dennis Lewin, the part-time volunteer Chairman of the Little League Board of Directors absent Defendant's showing that the senior executive has some personal unique knowledge of the relevant facts that is not available from other sources. (D.E. 54 at 5.) Second, Plaintiff requests a protective order postponing four other noticed depositions pending this Court's ruling on Defendant's pending Rule 56(f) motion. (D.E. 54 at 6.) Third, Plaintiff requests that in the event Defendant proceed with any depositions, that Plaintiff be entitled to a protective order precluding Defendant from asking any questions regarding his dismissed religious discrimination counterclaims. (D.E. 54 at 7.)

The Court notes that this case is over seven months old. According to the Court's June 23, 2008 Scheduling Order, the discovery deadline in this case is December 19, 2008. (*See* D.E. 27.) The Court intends to hold the parties to this December 19, 2008 deadline. Defendant has had over seven months to conduct discovery and over five months notice of the impending discovery cut-off, which has yet to expire. Accordingly, it is hereby

ORDERED AND ADJUDGED that Defendant's Motion (D.E. 50) is DENIED. Defendant SHALL respond to Plaintiff's Motion for Summary Judgment **on or before January 6, 2009,** which is ten (10) days after the December 19, 2008 discovery cut-off. **<u>No further extensions will be granted.</u>** It is further

ORDERED AND ADJUDGED that Plaintiff's Motion for Protective Order is DENIED AS MOOT to the extent that it requests a protective order postponing the four noticed depositions pending this Court's ruling on Defendant's Rule 56(f) motion. It is further

ORDERED AND ADJUDGED that Defendant SHALL file a response to remainder of Plaintiff's Motion for Protective Order **on or before Friday, December 12, 2008.** No reply will be permitted.

DONE AND ORDERED in Chambers at Miami, Florida, this 8th day of December, 2008.

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URSULA UNGARO
UNITED STATES DISTRICT JUDGE

copies provided:
Counsel of Record