

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
CASE NO. 11-mc-60467-JIC

LORI DAVIS, et. al.

adv

TOWN OF DAVIE  
\_\_\_\_\_ /

**ORDER GRANTING PETITION TO TAKE DEPOSITION  
TO PERPETUATE TESTIMONY**

**THIS CAUSE** is before the Court on Petitioner's Verified Emergency Petition to Take Deposition to Perpetuate Testimony of Benjamin Trapani [DE 1] ("Emergency Petition"). The Court has reviewed the Emergency Petition and is otherwise advised in the premises.

Petitioners, former employees of the Town of Davie's Fire Department, have filed charges of discrimination against the Town of Davie with the EEOC. The Town of Davie has actual knowledge of the claims. Because the EEOC has not yet issued "right to sue" letters, Petitioners cannot presently file their claims in this Court.

Mr. Benjamin Trapani was an employee in the Town of Davie's Fire Department for approximately twenty years and at the end of his career he served as the President of the Local Firefighters' Union. Petitioners represent that Mr. Trapani "has specific knowledge of facts and circumstances as well as documents and other information which are material." Emergency Motion at 2. Petitioners further represent that Mr. Trapani has terminal cancer and that his deposition is schedule to take place on March 10, 2011.

Petitioners, therefore, pursuant to Federal Rule of Civil Procedure 27(a), seek to

perpetuate Mr. Trapani's testimony for purposes of any action to be filed in this Court at a later date. Rule 27(b) provides that "[a]t least 21 days before the hearing date, the petitioner must serve each expected adverse party with a copy of the petition and a notice stating the time and place of the hearing." Here, the Court acknowledges that Petitioners have not, and will not, comply with Rule 27(b) before Mr. Trapani's scheduled deposition. Under the circumstances, however, the Court finds that Petitioners need not comply with Rule 27(b) for the Town of Davie has been on notice of the claims for longer than twenty-one days and, moreover, the Mr. Trapani's deposition had already been set pursuant to an Agreed Order entered by a Florida Circuit Court judge. Accordingly, it is

**ORDERED AND ADJUDGED** that Petitioner's Verified Emergency Petition to Take Deposition to Perpetuate Testimony of Benjamin Trapani [DE 1] is **GRANTED**. Petitioners shall serve counsel for the Town of Davie with a copy of this Order no later than March 8, 2011.

**DONE AND ORDERED** in Chambers at Fort Lauderdale, Broward County, Florida this 7th day of March, 2011.

  
JAMES I. COHN  
United States District Judge