

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF ILLINOIS**

RONALD SMART d/b/a PASCHALL	)	
ELECTRIC,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Case No. 07-94-DRH
	)	
INTERNATIONAL BROTHERHOOD	)	
OF ELECTRICAL WORKERS,	)	
LOCAL 702, and CHRISTOPHER N.	)	
GRANT, and SCHUHCHAT, COOK	)	
& WERNER,	)	
	)	
Defendants.	)	

**ORDER**

Defendant International Brotherhood of Electrical Workers, Local 702, is before the Court seeking to quash a deposition subpoena propounded by plaintiff Ronald Smart upon non-party Michael Barnett and/or to enjoin plaintiff from taking Barnett's deposition. **(Doc. 66)**. Defendant argues that the discovery period has closed, plaintiff never sought defendant's consent to the deposition, and plaintiff never served defendant with notice of the deposition. The subject motion was filed the same day that the deposition was scheduled, and the Court is unaware of whether the deposition took place. Plaintiff Smart has not filed a response to the subject motion.

All of the defendant's objections are well taken. By order dated April 16, 2010, this Court declined to reopen discovery after the case was remanded by the Court of Appeals for the Seventh Circuit. **(Doc. 61)**. Although the parties can mutually agree to conduct discovery, there is no evidence of such an agreement. Lastly, Federal Rule of Civil Procedure 45(b) requires that all parties be served with notice of a deposition.

**IT IS THEREFORE ORDERED** that the subject motion to quash the deposition subpoena issued to Michael Barnett (**Doc. 66**) is **GRANTED**.

**IT IS FURTHER ORDERED** that, in the event that Michael Barnett has been deposed, plaintiff is hereby **BARRED** from using Barnett's deposition in this action in any manner and for any purpose.

**IT IS SO ORDERED.**

**DATED: July 19, 2010**

**s/ Clifford J. Proud** \_\_\_\_\_  
**CLIFFORD J. PROUD**  
**U. S. MAGISTRATE JUDGE**