

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
FORT WAYNE DIVISION**

ANTHONY C. MARTIN,)	
)	
Plaintiff,)	
)	
v.)	CAUSE NO. 1:11-CV-403
)	
FORT WAYNE POLICE DEPARTMENT,)	
et al.,)	
)	
Defendants.)	

OPINION AND ORDER

Before the Court in this action advancing various civil rights claims under 42 U.S.C. § 1983 is a motion to compel the Plaintiff’s deposition testimony filed by Defendants on July 11, 2012. (Docket # 42.) Also pending is a “Notice to Take Oral Deposition” filed by the *pro se* Plaintiff on July 18, 2012 (Docket # 45), which the Court construes as a motion to compel the deposition testimony of all the Defendants. A hearing was conducted on the motions on July 19, 2012, at which Plaintiff and counsel to the Defendants appeared in person, and oral argument was heard and concluded. (Docket # 46.) In short, the Defendants wish to have the Court order the Plaintiff to appear and submit to a deposition, and the Plaintiff desires that each Defendant also appear and be deposed. In fact, the Plaintiff seems to suggest that the depositions of the Defendants can occur at the same time as his deposition, using the court reporter secured by the Defendants.

The last day for the completion of all discovery in this case is August 20, 2012. (Docket # 15.) The Defendants originally scheduled the Plaintiff’s deposition for April 23, 2012, but he

failed to appear (Defs.' Mot. to Compel Ex. G), and thus Defendants filed the instant motion. The Defendants now seek to conduct, in one day, eight separate one-hour depositions of the Plaintiff for this case and his seven companion cases. The Plaintiff does not object to being deposed, but argues that eight depositions in one day is excessive.

The Court GRANTS the Defendants' motion to compel (Docket # 42) and ORDERS the Plaintiff under Federal Rule of Civil Procedure 37(d)(1)(A)(i) to APPEAR on Monday, August 6, 2012, at 8:30 a.m., at the E. Ross Adair Federal Building and United States Courthouse, 1300 South Harrison Street, Fort Wayne, IN 46802, and to SUBMIT to deposition questions under Rule 37(b)(1). Four depositions of the Plaintiff will take place on August 6 in cases 1:11-cv-350, 1:11-cv-351, 1:11-cv-352, and 1:11-cv-403.¹ The Defendants' counsel shall decide the order and duration of these four depositions, but collectively they shall not exceed seven hours.

As to the Plaintiff's motion to compel the Defendants' depositions (Docket # 45), it is DENIED. The Plaintiff has not served notice of a deposition on any party under Federal Rule of Civil Procedure 30(b)(1), and besides, admits that he does not have the means to pay for the depositions. More to the point, the record does not support an order that compels each Defendant to submit to a deposition, and the Plaintiff cannot shift the cost of his depositions to the Defendants. *See, e.g., Dixie v. Fort Wayne Police Dep't*, No. 1:08-cv-85, 2008 WL 2130168, at *1 (N.D. Ind. May 21, 2008). Of course, the Plaintiff is not precluded from conducting discovery and may, for instance, wish to submit written interrogatories to the Defendants, *see Smith v. Campagna*, No. 94 C 7628, 1996 WL 364770, at *1 (N.D. Ill. June 26, 1996), but is reminded

¹ The Court is contemporaneously entering separate Opinion and Orders directing the Plaintiff to also appear at the E. Ross Adair Federal Building on Friday, August 3, 2012, and submit deposition testimony in cases 1:11-cv-346, 1:11-cv-347, 1:11-cv-348, and 1:11-cv-349.

that for discovery to be timely, it generally must be served at least thirty days prior to the discovery deadline. *See* Fed. R. Civ. P. 33(b)(2); *Martin v. Teusch*, No. 1:09-cv-321, 2011 WL 2710446, at *1 (N.D. Ind. July 12, 2011).

SO ORDERED.

Enter for this 20th day of July, 2012.

S/ Roger B. Cosby
Roger B. Cosby,
United States Magistrate Judge