

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

STATE OF INDIANA, ex rel. CHRIS)	
NAYLOR, Indiana Securities Commissioner,)	
Plaintiff,)	
)	
vs.)	1:09-cv-1506-SEB-TAB
)	
INDIANA STATE TEACHERS)	
ASSOCIATION, et al.,)	
Defendants.)	

**ORDER DENYING DEFENDANT INDIANA STATE TEACHERS ASSOCIATION'S
MOTION FOR PROTECTIVE ORDER**

A journalistic tenet is “don’t bury the lead,” and the writer of *The Indianapolis Star*’s September 13, 2010, article, “Rokita slams ISTA funding of candidates,” followed that rule. The story opened:

Indiana Secretary of State Todd Rokita has accused the Indiana State Teachers Association of putting politics over its members by making political contributions to campaigns while he says it owes school districts across the state \$23 million.


[Docket No. 117, Ex. 1.] The lead was successful—it grabbed Defendant ISTA’s attention. Three days earlier, ISTA had agreed to provide a witness for a Rule 30(b)(6) deposition on September 24. [See Docket No. 118, Ex. 5.] But after reading the *Star* article, ISTA became concerned that the 30(b)(6) deposition was really a strategy to obtain campaign fodder for Rokita, who is running for Congress. ISTA’s counsel immediately wrote Plaintiff’s counsel to express his concerns and to suggest that the deposition be rescheduled after the November 2 election. Plaintiff’s counsel declined to postpone the deposition, and ISTA moved for a protective order. [Docket No. 116.]

The parties appeared by counsel on September 22 for a telephone conference regarding ISTA's motion and argument was held. ISTA's counsel urged the Court to enter a protective order under Federal Rule of Civil Procedure 26(c), arguing that a pre-election deposition would cause embarrassment or annoyance because Rokita could use ISTA's statements (or refusal to testify) as part of his campaign.

Rule 26(c) permits the Court, upon a showing of good cause, to issue an order protecting a party from embarrassment or annoyance in discovery. ISTA has not shown good cause for postponing this deposition. First, ISTA agreed to the pre-election deposition and even offered the September 24 date. Second, ISTA cites no authority supporting entry of a protective order under similar circumstances. Third, the September 13 *Star* article is insufficient to establish that Plaintiff's underlying motive for the 30(b)(6) deposition is to grab headlines for Rokita's campaign.

ISTA alleges there are "clear indications that allowing the deposition to be taken at this time will result in abuse of the discovery process for improper political purposes." [Docket No. 120 at 3.] ISTA has made no such showing. Elsewhere ISTA asserts that "this is all much ado about nothing" [*Id.* at 2.] On this point the Court agrees. ISTA's motion for protective order [Docket No. 116] is denied.

Dated: 09/24/2010



Tim A. Baker
United States Magistrate Judge
Southern District of Indiana

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