

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

ROBERT J. MCELWEE	*	CIVIL ACTION
VERSUS	*	NO. 23-3137
ANCO INSULATIONS, INC., ET AL.	*	SECTION "G" (2)

ORDER AND REASONS

Pending before me on an expedited basis is Defendant Huntington Ingalls Incorporated's Motion to Compel Plaintiff's Deposition. ECF Nos. 95-97. Plaintiff timely filed an Opposition Memorandum. ECF No. 98. No party requested oral argument in accordance with Local Rule 78.1, and the court agrees that oral argument is unnecessary.

Having considered the record, the submissions and arguments of counsel, and the applicable law, the Motion to Compel is GRANTED for the reasons stated herein.

I. BACKGROUND

Plaintiff filed suit on March 7, 2023, against Defendants alleging exposure to asbestos which resulted in mesothelioma. ECF No. 1-1. Defendants removed the case to this court on August 4, 2023. ECF No. 1. The January 17, 2024 Scheduling Order establishes a November 4, 2024 discovery deadline. ECF No. 69.

On March 19, 2024, Defendant Huntington Ingalls Incorporated filed this motion to compel alleging that Plaintiff has twice cancelled his scheduled deposition without justification after lengthy efforts to schedule same. ECF No. 95-1 at 2-3. Avondale argues that the inability to depose Plaintiff is prejudicial to its defense, including denying it the opportunity to determine whether there are other potentially responsible parties. *Id.* at 5. It also argues that the aggressive form of mesothelioma requires proceeding expeditiously. *Id.* at 6. Avondale asks for an order directing Plaintiff to appear for deposition within 15 days or be sanctioned. *Id.*

In response, Plaintiff states that scheduling has been difficult due to Plaintiff's health issues and doctor's appointments. ECF No. 98 at 1. Plaintiff indicates that his deposition is currently scheduled for April 1, 2024 and, therefore, the motion is moot. *Id.*

II. ANALYSIS

Defendant's request to depose Plaintiff is eminently reasonable and well within the parameters of Rule 26. While the Court is mindful of the difficulties faced by Plaintiff due to his health conditions, this matter has been pending for over a year and the parties must proceed with discovery.

III. CONCLUSION

Accordingly, for the foregoing reasons,

IT IS ORDERED that the Motion to Compel (ECF No. 95) is GRANTED.

IT IS FURTHER ORDERED that Plaintiff appear for deposition on April 1, 2024, as scheduled.

New Orleans, Louisiana, this 26th day of March, 2024.


DONNA PHILLIPS CURRAULT
UNITED STATES MAGISTRATE JUDGE