

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

STATE FARM MUTUAL
AUTOMOBILE INSURANCE
COMPANY,

Plaintiff,

Case No. 2:16-cv-13040
District Judge Sean F. Cox
Magistrate Judge Anthony P. Patti

v.

ELITE HEALTH CENTERS, INC.,
ELITE CHIROPRACTIC, P.C.,
ELITE REHABILITATION, INC.,
MIDWEST MEDICAL
ASSOCIATES, INC., PURE
REHABILITATION, INC., DEREK
L. BITTNER, D.C., P.C., MARK A.
RADOM, DEREK LAWRENCE
BITTNER, D.C., RYAN MATTHEW
LUKOWSKI, D.C., MICHAEL P.
DRAPLIN, D.C., NOEL H. UPFALL,
D.O., MARK J. JUSKA, M.D.,
SUPERIOR DIAGNOSTICS, INC.,
CHINTAN DESAI, M.D., MICHAEL
J. PALEY, M.D., DEARBORN
CENTER FOR PHYSICAL
THERAPY, L.L.C., MICHIGAN
CENTER FOR PHYSICAL
THERAPY, INC., and JAYSON
ROSETT

Defendants.

**ORDER GRANTING DEFENDANTS' UNOPPOSED MOTION FOR
LEAVE TO TAKE DEPOSITION OF RAMASAMI GUNABALAN
PURSUANT TO FED. R. CIV. P. 30(a)(2)(B) (DE 116)**

A. Procedural Background

This matter is before the Court for consideration of Defendants' motion for leave to take deposition of Ramasami Gunabalan pursuant to Fed. R. Civ. P. 30(a)(2)(B), filed on March 23, 2018. (DE 116.) The motion was filed by Defendants Elite Health Care Centers, Inc., Elite Chiropractic, P.C., Elite Rehabilitation, Inc., Midwest Medical Associates, Inc., Pure Rehabilitation, Inc., Derek L. Bittner, D.C., P.C., Ryan Matthew Lukowski, D.C., Michael P. Draplin, D.C., Mark J. Juska, M.D., Superior Diagnostics, Inc., Derek Lawrence Bittner, D.C., Noel Upfall and Mark A. Radom. Defendants stated in their motion that concurrence with the relief requested was sought from all counsel of record and that "[c]ounsel for State Farm stated that State Farm does not oppose this motion." (*Id.* at 2.) However, because it was not clear from the motion whether all defendants join in or agree with the motion (Defendants Chintan Desai, M.D., Michael J. Paley, M.D., Dearborn Center for Physical Therapy, LLC, Michigan Center for Physical Therapy, Inc., and Jayson Rosett did not expressly join in filing the motion), the Court entered a text-only order on April 2, 2018, directing any party opposing the motion (DE 116) to file a response on or before April 9, 2018, or the motion would be treated as unopposed. (Text-only order, April 2, 2018.) On April 9, 2018, Defendant Chintan Desai, M.D. filed his concurrence and

joinder in the motion (DE 122). No other party filed a response. Defendants' motion therefore will be treated as unopposed.

B. Defendants' Motion

Defendants seek leave from the Court, pursuant to Fed. R. Civ. P. 30(a)(2)(B), to take the deposition of Dr. Ramasami Gunabalan, who is currently incarcerated in the Federal Bureau of Prisons at FMC Lexington. Defendants explain that Dr. Gunabalan provided an affidavit to Plaintiff State Farm in which he made "serious allegations" against Defendants and other individuals, and that State Farm has attached this affidavit "or other communications purportedly to or from" Dr. Gunabalan, to several pleadings. Because Dr. Gunabalan is not scheduled for release from prison until December of 2018, after the close of discovery, Defendants are unable to obtain testimony or information from Dr. Gunabalan without leave from the Court.

C. Order

Federal Rule of Civil Procedure 30(a)(2)(B) requires leave of court to take the deposition of an incarcerated individual, and states that leave must be granted "to the extent consistent with Rule 26(b)(1) and (2)." Having considered Defendants' unopposed motion, it is **GRANTED**. Defendants may depose Dr. Gunabalan in accordance with the Federal Rules of Civil Procedure and the procedures and requirements of the Federal Bureau of Prisons. The deposition of

Dr. Gunabalan must take place at a date and time as agreed on by the parties and the correctional facility, and may occur either in person, by telephone, or via video teleconference, at Defendants' option and consistent with the requirements and needs of Dr. Gunabalan's place of incarceration. To the extent necessary, the court reporter may bring any needed stenographic equipment into the prison, and counsel for the parties will be permitted to bring any papers necessary for the deposition.

IT IS SO ORDERED.

Dated: April 19, 2018

s/Anthony P. Patti _____
Anthony P. Patti
UNITED STATES MAGISTRATE JUDGE

Certificate of Service

I hereby certify that a copy of the foregoing document was sent to parties of record on April 19, 2018, electronically and/or by U.S. Mail.

s/Michael Williams _____
Case Manager for the
Honorable Anthony P. Patti