

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 Avern Cohn
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.

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**ORDER FOR NONPARTY JANET ROSENBERG TO DEMONSTRATE
COMPLIANCE WITH THE COURT’S INTERIM ORDER REGARDING
STATE FARM’S MAY 6, 2019 LETTER REQUEST (DE 454), HOLDING
STATE FARM’S MOTION TO COMPEL JANET ROSENBERG TO**

PRODUCE DOCUMENTS RESPONSIVE TO SUBPOENA (DE 341) IN
ABEYANCE

On May 9, 2019, following a May 8, 2019 telephonic status conference (DE 494), the Court entered an interim order regarding State Farm Mutual Automobile Insurance Company's (State Farm's) motion to compel non-party Janet Rosenberg to produce documents responsive to subpoena (DE 341), ordering non-party Rosenberg "to complete and submit the online Google (or Gmail) form(s) for the two 'deactivated' email accounts identified on the record (jlynnrosenberg@gmail.com and janjanrose911@gmail.com) **on or before May 17, 2019**, requesting to recover or restore those two accounts." (DE 465 (emphasis in original).) Counsel for State Farm and Rosenberg were thereafter directed to confer as to the results of that request and then seek a conference to inform the Court as to whether State Farm intends to go forward with its motion to compel. (*Id.*)

On June 19, 2019, the Court, not having heard from the parties, directed the parties to inform the Court, by July 1, 2019, as to whether State Farm intends to go forward with its motion to compel. (Text-Only Order dated June 19, 2019.) On July 1, 2019, State Farm filed a letter informing that Court that Rosenberg's counsel sent an email to State Farm on May 17, 2019, enigmatically stating: "Please stand by. We did contact Google to no result. Is having a kid [sic?] I am

in trial until the first week of June 5 days a week. Your artificial deadline of Wednesday is coming on. We're doing the best we can to time constraints....” (DE 529-1.) Since then, State Farm has emailed Rosenberg’s counsel five times between May 21 and June 28, 2019 with no response as to whether Rosenberg has been able to restore or recover either email account. (DE 529-2.) State Farm further states that Google responded to State Farm’s subpoena for account information pertaining to the two emails accounts above, and while Google responded that the jlynnrosenberg@gmail.com account was closed on March 22, 2012, Google did not provide any information regarding janjanrose911@gmail.com, suggesting, states State Farm, that that email address may not be a correct address. (DE 529.)

State Farm contends that Rosenberg has failed to comply with the Court’s May 9, 2019 Order requiring her to detail the steps taken to recover or restore the two “deactivated” email accounts identified on the record at the May 8, 2019 telephone conference (jlynnrosenberg@gmail.com and janjanrose911@gmail.com). State Farm therefore requests the Court order Rosenberg to submit an affidavit within seven days: (1) detailing the steps she took to restore and recover emails from those accounts; (2) clarifying if janjanrose911@gmail.com is or was her account; and (3) providing the correct email address if janjanrose911@gmail.com is incorrect.

Upon consideration of State Farm's July 1, 2019 letter, the Court **ORDERS** non-party Janet Rosenberg to explain, in writing, on or before **JULY 9, 2019**: (1) the steps she took to restore and recover emails from the two email accounts identified above, as ordered by the Court on May 9, 2019; and, (2) clarifying whether janjanrose911@gmail.com is or was her email account, and, if not, to provide the correct email address. **Rosenberg is cautioned that failure to comply with this order may result in an order granting State Farm's motion to compel and awarding its costs, including attorney fees.**

IT IS SO ORDERED.

Dated: July 1, 2019

s/Anthony P. Patti

Anthony P. Patti

UNITED STATES MAGISTRATE JUDGE