

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

JONATHAN JAMES,

Case No. 15-CV-1179 (PJS/FLN)

Plaintiff,

v.

ORDER

COVIDIEN LP,

Defendant.

Alf E. Sivertson and Marit M. Sivertson, LAW OFFICE OF SIVERTSON
AND BARRETTE, PA, for plaintiff.

Joseph D. Weiner and Marko J. Mrkonich, LITTLER MENDELSON, PC,
for defendant.

Plaintiff Jonathan James alleges that defendant Covidien LP retaliated against him and eventually fired him, violating Minnesota's Whistleblower Act, Minn. Stat. § 181.932, subd. 1(1). In an order dated September 4, 2015, Magistrate Judge Franklin L. Noel granted Covidien's motion for a protective order, permitting Covidien to depose James before his own counsel deposes him. This matter is before the Court on James's objection to that order.

A magistrate judge's ruling on nondispositive pretrial matters may be reversed only if it is "clearly erroneous or contrary to law." 28 U.S.C. § 636(b)(1)(A); *see also* Fed. R. Civ. P. 72(a). Having carefully reviewed Judge Noel's order and the parties' submissions, the Court finds that the order is neither clearly erroneous nor contrary to

law. Indeed, the Court is puzzled why James's own lawyers would need to depose him, given that they can simply pick up the phone and ask him any questions that they have, and given that they can draft an affidavit for him that contains any testimony that he wishes to submit in connection with any motion. Because the Court can discern no legitimate reason why James's attorneys would need take their own client's deposition *at all*—much less before Covidien is prepared to take his deposition—the Court agrees with Judge Noel that permitting Covidien to depose James before his own counsel depose him would further the “interests of justice” (Fed. R. Civ. P. 26(d)(2)) and would protect Covidien from “undue burden [and] expense” (Fed. R. Civ. P. 26(c)(1)).

Judge Noel's order is therefore affirmed.

ORDER

Based on the foregoing, and on all of the files, records, and proceedings herein, IT IS HEREBY ORDERED THAT plaintiff's objection [ECF No. 25] is OVERRULED and the September 4, 2015 order [ECF No. 24] is AFFIRMED.

Dated: September 30, 2015

s/Patrick J. Schiltz
Patrick J. Schiltz
United States District Judge