

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

ESTATE OF JOYCE ROSAMOND
PETERSEN, deceased;

Plaintiff,

vs.

WILLIAM E. BITTERS, ROBERT W.
BOLANDJR., JOHN L. HENRY, and
UNITED FINANCIAL SERVICES,

Defendants.

8:16CV183

ORDER

Defendant Henry, who appears as a pro se defendant, has moved for a protective order and to quash the outcome of a subpoena served on Don Bush, an accountant. Henry states he was never served with a copy of the subpoena prior to the deposition, and when he objected at the time of the deposition, he was told “It didn't matter what I thought, if didn't like it I could file a motion, but it would be dismissed just like all my other motions.” (Filing No. 162 at CM/ECF p. 2). Henry claims Plaintiff’s counsel then laughed at him. According to the affidavit of Mr. Bush, Mr. Gaudet was very coercive in demanding documents, informing Bush “in a very unsettling manner, that the deposition can go as long as seven hours and I was required to stay for the whole thing if we decide.” (Filing No. 162, at CM/ECF p. 7).

Nebraska Civil Rule 45.1 requires notice to all parties and an opportunity to object before any subpoena is served on a non-party. This rule applies irrespective of whether a party is represented by counsel. And pro se parties are entitled to the same respect as all other persons appearing before this forum.

Attorneys practicing before this forum must not engage “conduct unbecoming of a member of the bar.” NEGenR. 1.7(b)(2). Anything short of that is unethical. The undersigned magistrate judge previously warned Plaintiff’s counsel that unless they begin engaging in a professional and cooperative attitude toward this court and all parties and counsel of record, this court will require that they affiliate with local counsel going forward.

Accordingly,

IT IS ORDERED that Plaintiff’s counsel shall respond to Defendant Henry’s motions (Filing Nos. 162 and 164), on or before February 14, 2018.

February 9, 2018.

BY THE COURT:

s/ Cheryl R. Zwart
United States Magistrate Judge