

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.
★ JUL 31 2013 ★

-----X
DR. SIMPSON GRAY,

BROOKLYN OFFICE

Plaintiff,

MEMORANDUM AND ORDER

-against-

10-CV-3039 (SLT)(CLP)

THE CITY OF NEW YORK, *et al.*,

Defendants.

-----X
TOWNES, United States District Judge:

In her order dated May 29, 2013, Magistrate Judge Pollak denied plaintiff Simpson Gray's application to expedite the deposition of his psychologist, Dr. Charles Williams, but stated that the parties could "revisit this issue if circumstances change." Plaintiff objected to Judge Pollak's ruling and, in a Memorandum and Order dated June 17, 2013, this Court found plaintiff's objections to be without merit. This Court stated, however, that "[a]s provided in Judge Pollak's May 29 Order, plaintiff may renew his application for an expedited deposition if he can provide competent evidence from someone with personal knowledge of Dr. Williams' condition to establish that Dr. Williams is no longer working or in good health.

Plaintiff now seeks to renew his application to expedite Dr. William's deposition on the the basis of a letter dated July 26, 2013, addressed to Mr. Gray and signed by Ana Muller Spina, LCSW, the Clinical Manager of the Flushing Hospital Medical Center's Outpatient Mental Health Clinic. That letter states only that Dr. Williams has "resigned" from the Clinic and "won't be able to attend court." That letter does not state why Dr. Williams resigned or explain the basis for Ms. Spina's conclusion that Dr. Williams "won't be able to attend court." Even assuming, *arguendo*, that Ms. Spina knows that Dr. Williams resigned for medical reasons, it is

unclear whether Ms. Spina – who is a Licensed Clinical Social Worker, not Dr. Williams’ doctor – is capable of offering an opinion regarding Dr. Williams’ physical capabilities and the necessity of expediting Dr. Williams’ deposition.

For these reasons, plaintiff’s application to renew his application to expedite the deposition of Dr. Williams is denied without prejudice. Plaintiff may renew his application if he can provide an affidavit or affirmation from someone with personal knowledge of Dr. Williams’ condition and capabilities. Since that application relates to discovery, any such renewed application should be addressed to Magistrate Judge Pollak.

SO ORDERED:

SANDRA L. TOWNES
United States District Judge

Dated: July 30, 2013
Brooklyn, New York