UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

PAUL D. CEGLIA,

Plaintiff,

v.

MARK ELLIOT ZUCKERBERG, Individually, and FACEBOOK, INC.

Defendants.

Civil Action No. : 1:10-cv-00569-RJA

MEMORANDUM IN OPPOSITION TO DEFENDANTS' MOTION FOR DEPOSITION COSTS AND EXPENSES

INTRODUCTORY STATEMENT

Defendants and Plaintiff reached an agreement regarding the reasonable costs and expenses related to expert depositions. Declaration of Dean Boland at ¶2. Neither party was required to conduct any depositions of the opposing witnesses. Id. Defense Counsel Alex Southwell and Plaintiff's Counsel reached an agreement through a series of emails and phone conversations regarding which party would bear which deposition costs and expenses. Id. That agreement included, only, the following terms:

1. The party taking any deposition would pay the reasonable deposition fee for the witness' time in deposition and reasonable travel expenses of the witness attending that deposition. Id. at ¶4.

Neither Defense counsel nor Plaintiff's counsel obtained or sought any other terms regarding costs or expenses of deposition.

Defendants noticed their depositions of Plaintiff's experts and demanded those depositions occur before Plaintiff would depose Defendants' experts. Id. at ¶9. Defendants noticed those depositions to occur at Defendants' offices in New York. Id. Plaintiff noticed depositions of Defendants' witnesses to occur in Cleveland, Ohio, the location of his office. Id. at ¶10. Before Plaintiff's noticed depositions of Defendants' experts could occur, Mr. Southwell requested a concession - namely, that all Defendants' witnesses be deposed at Mr. Southwell's offices in New York. Id. at ¶11. Plaintiff's counsel agreed to that concession with the qualification that respect be given to scheduling of those depositions to account for Plaintiff's counsel having to bear the cost and time away from home for all depositions. Id. at ¶12. Mr. Southwell agreed to be accommodating in this respect.

Most depositions of Defendants' experts noticed by Plaintiff were conducted. Some were postponed for reasons outside of Plaintiff's counsel's control, canceled flights during travel to New York. Others were timely cancelled in good faith.

CANCELLED FLIGHT

Three depositions were scheduled, two on one day and one other on the following day that were cancelled when Plaintiff's flight to New York was cancelled midway. Plaintiff's counsel traveled from Cleveland to New York on a flight that had a required stop in Philadelphia. Id. at ¶17. While in Philadelphia, at approximately 11:45 PM that evening, Plaintiff's counsel was informed that the flight to New York was canceled. Id. at ¶18. The next flight to New York was the following day at 2:30 PM. Id. at ¶19. The train from Philadelphia had stopped

running at that time and would not resume until 5:30 am the following morning. Id. at ¶20. That train ride was approximately a two hour trip to New York followed by a subway or cab ride from the train station to Mr. Southwell's offices. Id. In addition, the frequency of travel to New York, at Mr. Southwell's request earlier in the summer, had taken its toll on Plaintiff's counsel and he became ill while resting on seats at the gate in the Philadelphia airport waiting out the evening. Id. at ¶17. Mr. Southwell was informed of this unexpected issue as soon as possible and demanded that Plaintiff's counsel, after sleeping in the terminal for a few hours, get on a train to New York and conduct a full day of planned depositions anyhow. Id. at ¶21. Plaintiff's counsel declined his demand. Id. at ¶22.

The depositions missed by that uncontrolled plane flight cancellation were either re-scheduled or timely canceled. Id. Defendants' have no reasonable argument that either those postponements or cancellations were done in bad faith.

TIMELY CANCELLATIONS

As noted above, the parties agreement was sparse and negotiated by experienced lawyers. Id. at ¶3. Neither party obtained or sought any transfer of risk regarding cancellations of depositions they noticed. Defendants' case law centers on attorneys who cancel depositions, untimely, when they are the noticed party responsible to present themselves and their witness for a deposition. That scenario is an obvious opportunity for strategic and inappropriate cancellations merely to harass or exhaust resources of the opposing party. Universally, the depositions cancelled for which Defendants in this case complain, were those that

the Plaintiff had noticed of Defendants' witnesses. Again, there was no requirement that either party take any depositions of the opposing witnesses. See above. There is no reasonable argument that Plaintiff was cancelling depositions of Defendants' experts in an attempt to exhaust the financial resources of the billionaire Defendants. Such an argument is ludicrous.

DEFENDANTS DEMAND, BUT REFUSE TO MEET AND CONFER

Defendants made no authentic attempt to meet and Confer. Moreover, they only began asserting their punitive expenses claim after their ambush attempt with Mr. Lesnevich was serendipitously thwarted by Plaintiff's timely cancellation of his deposition. Exhibit B. Plaintiff had no need to depose a witness whose entire expert analysis failed to determine the origin and integrity of the documents he analyzed. Mr. Argentieri's declarations regarding the altered copies that Mr. Lesnevich analyzed without inquiring as to their obviously not pristine nature, destroyed entirely the usefulness of Lesnevich's analysis and thereby his entire report. That left no reason to depose their uninformed expert. In addition, the comparison of Lesnevich's report of March 26, 2012 and his previous declaration further exposed him as willing to say anything to fit the moment, ignorant of the record he had created contradicting himself at every important turn.

Plaintiff's counsel reached out to Defendants on two occasions since receiving Defendants' unreasonable demands in their motion in an attempt to reasonably resolve this dispute consistent with the parties agreement on deposition related expenses. Defendants showed no interest in holding reasonable discussions, other

than check the box that they had attempted to meet and confer. First, Plaintiff requested the details of what charges they were alleging were the responsibility of Plaintiff. Their initial demand letter offered very little detail on the specifics of their demands. Second, Plaintiff offered to negotiate certain of the charges, while not waiving the right of refusal, so long as Defendants acknowledged that others were not Plaintiff's responsibility. Exhibit C. Defendants ignored that correspondence and filed this motion with the court. It represents no real interest in meeting and conferring.

These falsities of forum, only serve Defendants as they go through the motions of motion practice. Their claims to meet and confer are formulaic with no intent to resolve problems informally but involve the court to manufacture a paper trail to bolster their obviously unsuccessful dismissal evidence and strategy.

ADDING PHANTOM TERMS TO THE PARTIES' AGREEMENT

Defendants are now seeking nearly $100,000 in costs and expenses, the bulk of which are for expenses and costs that were never agreed to or even discussed as part of the parties agreement as noted above. Neither party saw fit to shift the risk of costs for witness preparation to the other party. Decl. of Dean Boland at ¶5-6. Neither sought to shift the risk of attorney preparation time spent with our respective witnesses to the other party. Id. Neither party sought to shift the risk of cancellation to the party cancelling a deposition they had notice of the other party's expert. Id. at ¶14. Neither party sought to impose "cancellation fees" on the other party in addition to the actual deposition fee that Defendants now seek from

Plaintiff for depositions that never occurred. Id.

This is obviously a naked attempt by Defendants to crush a financially weaker opponent. This is a corrupt litigation tactic employed since the dawn of litigation and it should be rejected by this court.

THE WINDFALL EFFECT

Each of the cancellations at issue occurred with more than sufficient time for the respective witnesses to return, by air or land, to their offices and be ready to work on the day that their now cancelled deposition was to take place. The obvious import of this is that Defendants are seeking to obtain a windfall for their experts and themselves. Those experts easily returned to their offices and on their now cancelled deposition day, were able to earn a full days income from their work while simultaneously seeking their full deposition fee for a deposition that never occurred. Meaning, had the deposition occurred, even a one question deposition that Plaintiff concluded, Defendants' unreasonable fee motion would have evaporated.

DEFENDANTS INFINITELY FLEXIBLE DEFINITION OF "REASONABLE"

The parties' agreement only called for the payment of reasonable deposition fees and reasonable travel expenses. It did not contemplate the payment of any and all travel expenses and deposition fees regardless of the demanded fee. Gus Lesnevich's scheduled half-day deposition for a fee of $6,400 equates to $1,829 per hour. It is no wonder Defendants failed to find case law support for that being a reasonable fee. Lesnevich refused to provide an hourly rate so that Plaintiff could ask him the most basic of questions about his report. Defendants' expert Gerald

McManemin demanded $5,000 ($1,429 per hour) to be deposed for one half day and was also unwilling to provide an hourly rate. Defendants' computer expert Eric Friedberg, demanded $975 per hour.

Plaintiff agreed to hold all depositions in New York City, rather than in Cleveland as a concession to Defendants' counsel and Defendants experts. Defendants' counsel did not have to travel for any of the depositions. Defendants should show Plaintiff the professional courtesy of understanding that flights are sometimes cancelled, especially when Defendant compromised and agreed to do all of the travel and have all of the burden associated therewith.

Defendants have refused to provide a reasonable level of detail to enable Plaintiff to evaluate the reasonableness of the proposed charges. Plaintiff believes it would have reasonable to travel into New York city the night before the deposition, appear for the deposition and return home after the deposition concluded. That would yield travel expenses plus one night of accommodations. However, Defendants are asking Plaintiff to cover $1,799 of hotel accommodations for Gus Lesnevich. The typical room rate in New York City at that time was $250.00 per night. Regardless of whether Mr. Lesnevich was in New York for his preparation or if he chose a lavish hotel, the charge is unreasonable. Defendants are asking Plaintiff to pay $2,403 for a business class flight for Mr. McManemin, a luxury that Plaintiff can not afford and is not within the "reasonable" travel expenses that the parties agree to pay. The Ritz Carlton in New York charges less for its rooms than Mr. Lesnevich is demanding.

DOUBLE BILLINGS

Defendants are demanding that Plaintiff not only pay for expert depositions, that were timely postponed or cancelled, but they are asking him to pay for some depositions twice. This amounts to a windfall for Defendants' experts. Defendants have billed $5,000 for an appearance fee for a deposition, McMenamin, that never occurred, plus an additional $5,000 as a "cancellation" charge. Both of these charges were not part of the agreement negotiated by two experienced lawyers who could have easily inserted these terms if they desired. Dr. Lyter and Dr. Tytell's depositions had to be rescheduled due to cancellation of Plaintiff's counsel's flight cancellation and subsequent illness. Both depositions of Dr. Lyter and Dr. Tytell were subsequently taken by phone while Plaintiff's counsel was home still recovering from the illness requiring their postponement to begin with. Plaintiff has already paid appearance fees for both Dr. Lyter and Dr. Tytell, but Defendants have charged them a second appearance fee of $1,500 and $1,700 respectively. Further and even more amazingly, Defendants are demanding that Plaintiff pay $7,700 in witness and/or attorney preparation fees for Dr. Lyter, even though Plaintiff took Dr. Lyter's deposition.

THE ILLOGIC OF DEFENDANTS' ARGUMENT

Essentially, Defendants' argument to this court is that Plaintiff's failure to conduct depositions of Defendants' witnesses ought to be met with a punishment that is 75% or more of the cost of actually conducting them. According to the Defendants' argument, had Plaintiff simply conducted all of the cancelled

depositions and asked one question and then concluded them, Defendants' entire argument for punitive expenses and fees would evaporate. The court will notice that with one exception Defendants are not asking for witness or attorney preparation time expenses for depositions that were actually conducted. This acknowledges the parties' agreement did not include those expenses be borne by the deposing party even with the well known possibility of a cancellation of a deposition.

DEFENDANTS' PATTERN AND PRACTICE OF ONLY PAYING FOR ACTUAL DEPOSITION TIME

During Plaintiff's expert Neil Broom's deposition, it became apparent halfway through the full day deposition, that Defendants' repeatedly requested "fifteen minute breaks" (lasting forty-five minutes on average) were going to require Mr. Broom to stay at their offices for at least ten hours that day. Plaintiff's counsel noted that the rules only entitled deposition of Mr. Broom for seven hours without further permission of the court. F.R.Civ. P. 30(d)(1). Defendants' countered that the rule only contemplated the time **actually** in deposition. Decl. of Dean Boland at ¶25-26. Meaning, Defendants felt it was appropriate to keep Plaintiff's experts at their offices for as long as they saw fit provided he was only on the record being deposed for seven of those hours total. Id. Defendants continued with this practice with witness Larry Stewart. Id. at ¶27-29. Their refusal to pay Mr. Stewart for any time other than that spent in deposition further underlines this point. Mr. Stewart billed Defendants for nine hours of time they required him to be present at their

offices for his deposition. Id. Defendants refused to pay Mr. Stewart for one minute beyond the seven hours he was actually in deposition. Id. Therefore, they reinforce the practice started with witness Broom that only when a witness is being deposed are they entitled to be paid for deposition time. Id.

Despite this repeated practice by Defendants, they now seek to have their experts paid despite them not being deposed at all. Even if this court were sympathetic to the notion that the expert had to sit at the Defendants' offices for a period of time on a given day of their deposition without being deposed, Defendants forcefully refused to pay Plaintiff's witnesses for any time spent at their offices outside of actual deposition time. They now expect Plaintiff to pay their witnesses for time spent at their offices in opposition to their position they have acted on with Plaintiff's experts. It's duplicity defined. In Defendants' world, none of Plaintiff's experts deserve to be paid for merely being at Defendants' offices for a noticed deposition, they only get paid for time actually spent **in deposition**.

Defendants have filed this motion in bad faith. They recognize a superior financial advantage over Plaintiff and have sought these additional expenses, never agreed to by the parties and not reasonably anticipated, as a means to further attempt to wear Plaintiff down.

Mr. Southwell for Defendants and Plaintiff's counsel reached an agreement, negotiated between two experience lawyers, which assessed what costs and risks would be borne by each party. Declaration of Dean Boland.

DEFENDANTS' NOT SEEKING SANCTIONS

Defendants are not, because they cannot, seek sanctions against Plaintiff. There is no reasonable argument that Plaintiff's conduct regarding the depositions was anything other than in good faith. Defendants do not like that they lost an opportunity, e.g. the timely cancelled Lesnevich deposition, to ambush Plaintiff with new reports, but that irritation at a strategy thwarted is insufficient to prevail.

Defendants ask this court to override the parties carefully crafted agreement for the payment of expenses. Yet no sanctions are requested in Defendants motion. No egregious bad faith actions are claimed. In direct conflict to the "American Rule" on legal fees, Defendants seek the payment of their legal fees. The exception to the "American Rule" is a finding of bad faith conduct. Defendants' do not even allege bad faith conduct much less establish it. From the outset then it seems clear that the request for legal fees is completely unsupported fantasy and ignores a complete lack of support factually and legally. No request or argument for sanctions has been made and no attorney fees therefor could possibly be awarded.

Defendants' motivation for this motion is obvious. Their factual and legal claims are now illuminated to be insufficient to obtain the dismissal they seek. Defendants know that their own experts have been discredited in deposition. Other Defense experts have submitted new reports masquerading as supplemental "'findings" yet directly contradicting other Defense experts. Defendants seek not only to create a new legal argument of a two page forgery, but abandon as if it never existed, their years long claim of a page one substitution, now bobbing out at sea like a lone life raft, where their Facebook Battleship once patrolled.

The court is now confronting the response to their supposed avalanche of expert opinion which turns out to be the iceberg sinking their ship. The majority of Plaintiff's response is not reliant on Plaintiff's experts. It relies on a comparison of **Defendants' expert reports** and **Defendants' experts' depositions** which are incongruent in every key area that the court once regarded as part of Defendants' avalanche of evidence. Heaped on top of that crumbled facade are Plaintiff's experts confirming the authenticity of the FB contract and emails disputing every key point in Defendant's experts' reports. The unrefuted scientific evidence is that page one of the Facebook Contract and page two originated on the same printer. The pages are consistent with those from the same production run. Losing on the facts and the law, Defendants are now exploiting the only remaining strategy - outspending their opponent in hopes he will be bankrupted into defeat.

This intellectually dishonest argument now seeks to make Plaintiff pay for costs that would never have been accrued had Defendants not so grossly misrepresented the facts of this case that they now claim they never said. One expert after another attested to the differences between page one and page two yet Defendants now disclaim authorship of that argument, now discredited by their own experts and Plaintiff's, repeatedly made throughout this case.

> **The court does not award sanctions based on the time spent in preparation for the deposition, as this time is not wasted. The court also does not award the costs of the Motion or bar further deposition of Grismer as the court sees no evidence that the deposition was cancelled in bad faith.** *Barrett v. Brian Bernis Auto World*, 230 FRD 535 (N.D. Ill. 2005).

CANCELLATIONS WERE ALL IN GOOD FAITH

As opposed to the grossly misrepresented case law referenced by Defendants, Plaintiff's few cancellations were in good faith.

Defendants argue that *Edmonds v. Seavey*, No. 08 Civ. 5646(HB) (JCF), 2009 WL 1285526, at * 3 (S.D.N.Y. May 5, 2009) supports their position that they should be awarded their costs. *Edmonds* does not support their position at all. In *Edmonds*, the court awarded deposition costs and expenses not because of an untimely cancellation, but only because the court found that in the unique circumstances of that case, the cancellation could "only be construed as an attempt to gain leverage with respect to unrelated discovery issues." Id.

Defendants made no argument that that they were prejudiced by the cancellations in any way. Defendants have not argued, because no facts support it, that Plaintiff cancelled depositions of Defendants' experts in an attempt to gain leverage.

Rule 30(g) (1) of the Federal Rules of Civil Procedure provides:

> **If the party giving the notice of the taking of a deposition fails to attend and proceed therewith and another party attends in person or by attorney pursuant to the notice, the court may order the party giving notice to pay to such other party the reasonable expenses incurred by that party and the party's attorney, including reasonable attorney's fees.**

Plaintiff did not fail to attend any of the depositions in question. Rather, Plaintiff's counsel gave timely notice to relieve Defendants' experts of the burden of deposition.

Defendants were not, as often happens in sanctionable deposition cancellations, left sitting in the deposition room wondering when opposing counsel and the witness were going to appear. They were given ample notice for cancellation and at no point were Defendants left languishing warranting an award under Rule 30 (g). Defendants' do not argue or have evidence to support the essential elements under Rule 30(g). Despite not having supporting evidence, they disregard their obligations not to bring frivolous motions and file this one in bad faith.

THREE OF THE CANCELLATIONS WERE DUE TO WEATHER AND ILLNESS

Plaintiff was forced to postpone, but not cancel, the depositions of Dr. Lyter, Mr. Tytell and Dr. McManemin because Plaintiff's counsel's flights were cancelled and because he subsequently became ill as a result of the travel strain. These circumstances beyond Plaintiff's control caused the cancellation of three of the depositions. As soon as those plane flights were cancelled and no other way to reasonably attend the day and a half of deposition existed, Plaintiff's counsel immediately contacted Defendants' counsel by email.

> **It appears that both of the attorneys representing plaintiff in this lawsuit became ill during the week of January 14, and that they notified defendant's counsel by the afternoon or evening of January 15 that they could not appear for the deposition the next day. (Affidavit of Malik Cutlar, Esq., sworn to Apr. 3, 1997, at ¶¶ 14–24; Affidavit of Andrew J. Entwhistle, Esq., sworn to Mar. 17, 1997, at ¶¶ 8–9 and Ex. F). That notice was undoubtedly sufficient to permit defendant's attorney to cancel the reporter's appearance, and thus avoid incurring any expense. Moreover, the proffered excuse was surely sufficient to justify postponing the deposition, particularly in**

> **the absence of any demonstrated prejudice. Attorneys in this court routinely extend, and are expected to extend, common courtesies to their adversaries; whatever the frustrations of litigation—and they should not be underestimated—counsel must not lose sight of the fact that they are professionals acting in accordance with certain accepted standards, and not gladiators fighting for their lives.** *Tomlinson v. St. Paul Reinsurance Management Corp*. 1998 WL 65996.

Two of the depositions (Dr. Lyter and Dr. Tytell) that were affected by Plaintiff's counsel's cancelled flight and subsequent illness were rescheduled and taken by telephone. While those depositions were being re-scheduled, Plaintiff's counsel questioned the reasonableness of Mr. McMenamin's fee for his scheduled half-day deposition. The deposition of Dr. McManemin was never rescheduled because despite numerous attempts by the Plaintiff to discuss the matter with Defendants, Defendants refused to provide an hourly rate for the witness. Exhibit A. Dr. McManemin sought a five thousand dollar fee for a half day deposition, i.e. 3.5 hours. Once timely cancelled, Mr. McManemin now seeks a windfall additional "cancellation fee" of five thousand dollars more. Finally, he was likely sitting in his office on the day of his cancelled deposition earning even more income. This inappropriate gouging should be rejected by the court.

REMAINING CANCELLATIONS HAD SUFFICIENT NOTICE

Other than the short notice given for the flight cancelled due to thunderstorms and the subsequent illness, Plaintiff provided timely notice of any other deposition cancellations. See Declaration of Dean Boland.

"Thus it appears that plaintiff was provided oral notice of cancellation at least two days prior to the deposition. I do not find that this constitutes insufficient

notice of cancellation warranting the award of attorneys' fees and costs." *Donini Intern., S.P.A. v. Satec* (U.S.A.) LLC 2006 WL 695546 at *8.

The eventual cancellation of Defendants' expert Mr. Friedberg (Stroz Friedberg) and Novak's depositions were reasonable. Stroz Friedberg's offices are in New York and Defendants' counsel, Mr. Southwell, specifically sought to have those experts' depositions in New York, as opposed to Cleveland where they were noticed, to minimize Defendants' travel expenses and related logistics. At no time was Plaintiff's counsel informed that some of the Stroz witnesses did not live in New York during those conversations that resulted in Plaintiff's counsel compromising to fly to New York for those depositions. Now, as is obvious, that compromise for Defendants' counsel's benefit has been returned to Plaintiff as Defendants' naked attempt to financially harm Plaintiff as a litigation tactic. Even had Mr. Novak had to fly to New York, he surely, as a computer expert for Stroz, could have continued to work from the secure environment of the main office of Stroz,in New York City. He therefore could not have lost a days work as he was at the main office of his employer.

Mr. Lesnevich's cancelled deposition is the most egregious for which Defendants seek compensation. Mr. Lesnevich drove to New York City through the Tri-State area of Pennsylvania, the state where he lives, at least two days before his deposition. Therefore, upon hearing of the cancellation of that deposition two days beforehand, he could easily have returned to his residence in Pennsylvania putting in a full day's work on the previously scheduled day of his deposition. Mr. Romano

came by train to New York, an accommodation of his deposition date was requested by Defendants because of Mr. Romano's refusal to fly to New York. He could have left New York any time after learning of the cancellation of his deposition. Yet in both these instances, Defendants sought to bring their experts in at least three days in advance of the deposition for "Deposition Prep" Requiring the Plaintiff to pay for three days of "prep" is unreasonable and unsupported by any case law.

PROPOSED PAYMENTS

Defendants' expert Mr. McManemin spent three nights in the Hyatt hotel at an average cost of $374 per night. Had Mr. McManemin been traveling for the sole purpose of attending the deposition, one night would have been sufficient to enable him to attend the deposition. While Plaintiff believes that he has demonstrated clearly that the expenses incurred by Defendants are the responsibility of the Defendants, should the court agree in part with Defendants and believe that some reasonable travel expenses should be borne by Plaintiff, he offers the following as a reasonable response to Defendants' outrageous demands:

The travel expenses proposed by Mr. Novak ($649.51) and Dr. Lyter ($1,286) seem reasonable as presented. Plaintiff proposes to adjust the travel invoices of Mr. Lesnevich and Dr. Romano down from $2,228.97 to $803.49 and from $1,599.52 to $606.15, respectively to reflect the reduction of hotel costs down to the equivalent of one night in the Hyatt at $374 per night.

Finally, Plaintiff proposes to reimburse Mr. McManemin for 50% of his business class flight plus adjusting his hotel stays to one night for an adjustment

from $3,665 to $1,714.50. Had Plaintiff been consulted in advance, he would not have agreed that a $2,405 business class flight was a reasonable expense. After these adjustments, the total reasonable travel reimbursements would be $5,059.65. Its unfortunate that Defendants were unwilling to have these basic discussions with Plaintiff before addressing the court.

CONCLUSION

Defendants ask for three categories of fees.

Preparation Fees - Defendants ask for $68,661.75 of preparation fees for hours spent by the experts and Defendants' counsel preparing the experts for depositions. Plaintiff never agreed to pay these mind boggling expenses of which Plaintiff had no control over.

Appearance Fees - Defendants ask for $17,350.00 for expert fees that would have been incurred had the Plaintiff taken deposition of the experts, plus the duplicate cost of $3,200 for Dr. Tytell's and Dr. Lyter's rescheduled appearance fees. Plaintiff should not be responsible for the appearance fees when no depositions were taken.

Travel Expenses - Defendants ask for $9,429.00 for the travel and lodging expenses incurred by their experts in connection with the cancelled depositions. The experts could have avoided all of these costs if Defendants had not asked them to come to New York City early for Defendants' own reasons. However, if the Court rules that Plaintiff should only be responsible for some of the travel expense, he should only be responsible for the reasonable expense of $5,059.65.

Respectfully submitted,

/s/Dean Boland

Paul A. Argentieri
188 Main Street
Hornell, NY 14843
607-324-3232 phone
607-324-6188
paul.argentieri@gmail.com

Dean Boland
1475 Warren Road
Unit 770724
Lakewood, Ohio 44107
216-236-8080 phone
866-455-1267 fax
dean@bolandlegal.com