

Campbell v. Pepsi Beverages Inc. Doc. 12

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

---

BOBBY CAMPBELL, JR.,

Plaintiff,

v.

PEPSI BEVERAGES, INC.,

Defendant.

---

DECISION & ORDER

16-CV-6600L

Currently pending before the Court is plaintiff's motion for a protective order. (Docket # 35). Plaintiff seeks to preclude Jesse Pitts, Robert Flaherty and James Sapp, Jr. from being present at plaintiff's deposition on November 9, 2017. (*Id.*). Defendant opposes the motion (Docket # 37). For the reasons explained below, plaintiff's motion is **DENIED**.

Plaintiff's motion is procedurally defective because he did not sign the motion papers. Rule 11 of the Federal Rules of Civil Procedure states that "[e]very pleading, written motion, and other paper must be signed by . . . a party personally if the party is unrepresented." Fed. R. Civ. P. 11(a). Local Rule 10(b)(6) states that "documents presented for paper filing must contain an original signature." L.R. Civ. P. 10(b)(6). During oral argument on October 5, 2017, the Court specifically addressed with plaintiff the requirement that he sign every filing with the Court and that every motion be supported by an affidavit. The instant motion was filed on October 19, 2017, two weeks after that advisement, and yet the motion is unsigned and unsupported by any affidavit. Plaintiff has not complied with the rules of the Court and his motion is denied on that basis.

On the merits, plaintiff has not demonstrated justification for exclusion of the three individuals, whom counsel for the defendant has identified as representatives of her corporate client. *See* Fed. R. Civ. P. 26(c)(1)(E) (stating that the Court may, for good cause, designate the persons to be present at a deposition “to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense”). Moreover, plaintiff will not suffer any apparent prejudice because, as he indicated to the Court at his last court appearance on October 5, 2017, he does not intend to take any depositions. Accordingly, it is hereby

ORDERED that plaintiff’s motion for a protective order (Docket # 35) is

**DENIED.**

**IT IS SO ORDERED.**

*Marian W Payson*

---

MARIAN W. PAYSON  
United States Magistrate Judge

Dated: Rochester, New York  
November 8, 2017