

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

STEPHEN M. HILL,

Plaintiff,

v.

HOMEWARD RESIDENTIAL, INC.,

Defendant.

Case No. 2:13-cv-388

JUDGE GREGORY L. FROST

Magistrate Judge Mark R. Abel

ORDER

This matter is before the Court for consideration of Defendant's October 16, 2014 objection to Plaintiff's notice of trial deposition. (ECF No. 47.) The objection targets the October 16, 2014 notice by Plaintiff in which Plaintiff cites Federal Rule of Civil Procedure 30(b)(6) as permitting a trial deposition of one or more unidentified corporate representatives of Defendant. (ECF No. 46.) The time and place of the "trial deposition" indicated in the notice is actually the first day of the jury trial set to commence on October 20, 2014, with the "deposition" presumably to take place with the representative on the witness stand.

Twice Plaintiff has served a subpoena intended to compel an unidentified corporate representative of Defendant to appear and testify at trial. (ECF Nos. 36, 40.) Because neither subpoena is viable (ECF Nos. 43, 45), it appears that Plaintiff is now attempting an end-run around the failed subpoenas by recasting trial testimony as a deposition. In its objection, Defendant accurately describes the recent notice in stating that Plaintiff has "served a Rule 45 trial subpoena disguised as a Rule 30(b)(6) deposition notice." (ECF No. 47, at Page ID # 1017.) This is not permissible.

Discovery has closed. Rule 30(b)(6) provides a mechanism for taking a discovery deposition, which may or may not be used at trial, and not a mechanism for compelling live trial testimony. This Court therefore finds the objection well taken. The October 16, 2014 Rule 30(b)(6) notice is invalid and of no effect.

IT IS SO ORDERED.

 /s/ Gregory L. Frost
GREGORY L. FROST
UNITED STATES DISTRICT JUDGE