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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

GLORIA REYES-FERRER

Plaintiff

v.

Civil No. 09-1493 (SEC)

CENTENNIAL PUERTO RICO
COMMUNICATION CORP., ANGELA
RAMOS; JOSE SANTOS, IVAN
SOMAVILLA

Defendants

OPINION and ORDER

On June 17, 2010, Defendants filed a motion to compel Dr. Haydee Santiago Lugo, M.D. to appear at deposition. According to Defendants, Dr. Santiago’s deposition was initially set for May 18, 2010 but was rescheduled on two occasions. Finally, on the morning of June 9, 2010, the date of the scheduled deposition, Dr. Santiago sent Defendants an invoice of her professional fees. Defendants informed Dr. Santiago that insofar as she was testifying as a treating physician, she would receive the applicable \$40.00 appearance fee and a mileage rate of \$.50 per traveled mile. Dr. Santiago allegedly objected to Defendants’ classification of her as a “treating physician” and not an expert witness, and her counsel informed Defendants that she would not attend the deposition. As previously advised, on June 14, 2010, Dr. Santiago’s counsel sent a letter to Defendants stating that the deposition would be too burdensome, and that his client would only appear if Defendants agreed to pay her \$250.00 per hour plus one hour of travel time.

This Court first notes that Dr. Santiago’s deposition is not overly burdensome, cumulative or duplicative under Fed. R. Civ. P. 26(b)(2)(C), especially considering that she will testify at trial about the treatment provided to Plaintiff. As to Dr. Santiago’s argument that the fees allowed pursuant to 28 U.S.C. § 1821(a)(1) are not “exclusive of all other reasonable fees,” as Defendants

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3 correctly point out, there is no case law to support said conclusion. Albeit this Court recognizes
4 that some districts have held that “requiring physicians to curtail their usually lucrative practice,
5 for the purpose of providing testimony at the laughable statutory rate, flies in the face of sound
6 public policy,” others question “the logic where a physician, who is specifically not designated
7 as an expert witness, may benefit from the ‘reasonable fees’ provision of Rule 26(b) where any
8 other citizen, whether professional or laborer, may not.” McDermott v. FedEx Ground Sys., 247
9 F.R.D. 58, 60 (D. Mass. 2007). A logical explanation is yet to be provided by the courts as to why
10 physicians should be afforded special treatment in this arena, and no other class of professional
11 is granted the same leeway.

12 As McDermott points out, there is a clear split among the district courts on this front, and
13 neither this district or the First Circuit have issued a decision on this matter. However, as in
14 McDermott, we decline “to set precedent in this jurisdiction that, essentially, singles out
15 physicians for special treatment. . . . If Congress wishes to single out certain professions for
16 higher compensation, that is certainly its prerogative, but this Court declines to enter that arena,
17 which is, essentially, a slippery slope.” McDermott, 247 F.R.D. at 61 (citing Demar v. U.S., 199
18 F.R.D. 617, 619- 20 (N.D. Ill. 2001).

19 Accordingly, Defendants’ motion to compel Dr. Santiago’s appearance for deposition is
20 **GRANTED**, and Dr. Santiago’s motion for protective order is **DENIED**. In light of the foregoing,
21 **Discovery** is extended until **July 30, 2010**. As such, the parties shall promptly schedule Dr.
22 Santiago’s deposition.

23 **IT IS SO ORDERED.**

24 In San Juan, Puerto Rico, this 6th day of July, 2010.

25 *S/ Salvador E. Casellas*

26 SALVADOR E. CASELLAS

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United States District Judge