

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

AMERICAN AIRLINES, INC.	§	CIVIL ACTION NO. 4:11-CV-244-Y
	§	
vs.	§	(Relates to Motion Referred to Magistrate
	§	Judge Cureton)
TRAVELPORT LIMITED, et al.	§	
	§	

**AMERICAN’S BRIEF IN OPPOSITION TO SABRE’S
MOTION FOR LEAVE TO FILE SUR-REPLY TO AMERICAN’S
MOTION TO COMPEL THE DEPOSITIONS OF DEFENDANT SABRE’S WITNESSES**

Sabre seeks leave to file a sur-reply to American’s Motion to Compel (Dkt. No. 377) purportedly in order to address American’s request to depose Sam Gilliland, its Chief Executive Officer. Sur-replies are “highly disfavored,” and courts “only permit pleadings beyond Local Civil Rule 7.1 in exceptional or extraordinary circumstances.” *Lacher v. West*, 147 F. Supp. 2d 538, 539 (N.D. Tex. 2001) (Lindsay, J.). For the following two reasons, the fact circumstances before the Court are neither exceptional nor extraordinary, and Sabre’s motion for leave to file a sur-reply should be denied.

First, the legal issue in American’s Motion to Compel is whether American is entitled to depose *any* Sabre witnesses in this case, not simply whether American is entitled to depose Chris Wilding, Sabre’s vice president. (*See* Mot. at 6 [Dkt. No. 377].) Sabre drew a clear line in the sand, refusing to sit for any depositions in the federal matter if those witnesses previously sat for deposition in the state matter (albeit months earlier and in an entirely different case). (*See* Email from A. MacNally to M. Hartmann dated July 6, 2012 (App. at 1, Ex. A).) American’s Motion to Compel seeks an order of the Court overruling that objection and compelling Sabre to comply with its Rule 30 deposition obligations, as American has done in the federal matter. There can be no doubt that Sabre understands the scope of American’s Motion to Compel, as it repeatedly

acknowledges (both in its response filed with this Court and in correspondence with American) that American needs to depose more Sabre witnesses in the federal matter than simply Mr. Wilding. (*See* Resp. at 1 (“American asks this Court [to compel] depositions of *any* Sabre witnesses it may ask for” (emphasis in original), 10 (“American’s requested relief extends far beyond a second deposition of Mr. Wilding. American asks for a sweeping and ambiguous Order compelling Sabre to produce numerous, unidentified witnesses for second depositions.” [Dkt. No. 383]); Email from M. Hartmann to A. MacNally dated June 29, 2012 (App. at 3, Ex. B).)

Second, American noticed the deposition of Mr. Gilliland on August 14, 2012—*before Sabre filed its response to American’s Motion to Compel*. (*See* Notice of Intent to Take the Videotaped Dep. of S. Gilliland (App. at 5, Ex. C).) Sabre chose not to address the Gilliland Deposition Notice in its response, notwithstanding its acknowledgment that American’s Motion to Compel sought an order overruling Sabre’s broad objection to sit for any depositions. Accordingly, Sabre cannot claim it just became aware of American’s intention to depose Mr. Gilliland.

Sabre has not presented the Court with exceptional or extraordinary reasons to justify its request for leave to file a sur-reply. Indeed, Sabre’s insistence that this Court rule separately each time American notices a new Sabre witness for deposition is far from exceptional. It is exhausting. That is not the role of the Court, and Sabre fails to cite any authority for the position that it is excused from sitting for any depositions in this case.

DATED: September 4, 2012

Respectfully submitted,

/s/ Michelle Hartmann

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CERTIFICATE OF SERVICE

I hereby certify that all counsel of record who are deemed to have consented to electronic service are being served with a copy of the foregoing document via the Court's CM/ECF system pursuant to the Court's Local Rule 5.1(d) this 4th day of September, 2012.

/s/ Michelle Hartmann
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