

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

AMERICAN AIRLINES, INC.

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VS.

CIVIL ACTION NO. 4:11-CV-244-Y

TRAVELPORT LIMITED, et al.

**ORDER GRANTING PLAINTIFF'S MOTION TO COMPEL THE DEPOSITIONS OF  
DEFENDANT SABRE'S WITNESSES AND DENYING SABRE'S MOTION FOR  
PROTECTION**

Pending before the Court are two motions: (1) Plaintiff American Airlines, Inc. (“American”)’s Motion to Compel the Depositions of Defendant Sabre’s<sup>1</sup> Witnesses (“Motion to Compel”) [doc. # 377], filed July 25, 2012 and (2) Defendant Sabre’s Motion for Protection [doc. # 383], filed August 15, 2012. In its Motion to Compel, American argues that it has repeatedly sought to obtain deposition dates for the deposition of Christopher Wilding (“Wilding”), Sabre’s Vice-President of North American Airline Sales, but that Sabre has refused to provide any dates. (Plaintiff’s Motion (“Pl.’s Mot.”) at 1, 3.) American further claims that Sabre has refused to produce Wilding or *any* witness for deposition if that witness was deposed in a separate lawsuit between American and Sabre that is currently pending in the 67<sup>th</sup> District Court of Tarrant County, Texas (“Tarrant County Case”).<sup>2</sup> (Pl.’s Mot. at 1.) American claims

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<sup>1</sup> Although it is not clear, it appears that when the parties refer to “Defendant Sabre” they are actually collectively referring to Defendants Sabre Inc.; Sabre Holdings Corporation; and Sabre Travel International Ltd. The Court will likewise refer to Defendant Sabre herein.

<sup>2</sup> American states that in the Tarrant County Case, each side has been given 180 hours of deposition time. American further states that depositions in the Tarrant County case have been ongoing since February 24, 2012, and that, so far, 22 American witnesses and 24 Sabre witnesses have been deposed. (Pl.’s Mot. at 2.) In its response, Sabre states that American has deposed 28 current and former Sabre employees in the Tarrant County Case. (Def.’s Resp. at 1.) As to the other defendants in this case, American states that it has reached an agreement with them that sets forth parameters for deposing witnesses who had previously been deposed in the Tarrant County Case. (Pl.’s Mot. at 2.)

that “American witnesses deposed in the Tarrant County Case have been, and continue to be, deposed in this action, and Sabre offers no reason why it should be treated differently than the other parties.” (*Id.*) In addition, American argues that Sabre should be compelled to produce its witnesses for deposition because: (1) Sabre has belatedly produced important documents in this case since Wilding and other Sabre witnesses were deposed in the Tarrant County Case and (2) Travelport and Orbitz, the other two defendants in this case, have not consented to American’s use of prior deposition testimony to prove American’s claims against them. (*Id.*) Furthermore, American contends that Sabre has repeatedly attended the federal court deposition of a witness, refused to ask any questions, and then later deposed the same witness in the Tarrant County Case. (Pl.’s Mot. at 4-5.)

In its response, Sabre argues that American’s request to compel the second depositions of *any* Sabre witness it may ask for is cumulative and harassing as such witnesses have already been deposed in the Tarrant County Case. (Defendant’s Response (“Def.’s Resp.”) at 1.) Sabre claims that it has made reasonable efforts to resolve this dispute with American but that American has refused its offers of compromise. (Def.’s Resp. at 1, 5.) Sabre states that “[w]hat is really happening here is that American is using this federal proceeding as a means to obtain additional discovery beyond the limits set by the court in a parallel state action currently pending between American and Sabre.” (Def.’s Resp. at 1.) In this regard, Sabre argues that the claims, allegations, and subject matter in this case are essentially identical to the claims, allegations, and subject matter in the Tarrant County Case. (Def.’s Resp. at 2.) Sabre claims that it and American agreed in principal to depose each other’s witnesses only once between the two cases, but that American refused to sign a stipulation to this effect. (Def.’s Resp. at 3.) Additionally, Sabre contends that American’s strategy of bringing two different causes of action in different

courts against different parties has caused American to expose its own witnesses to multiple depositions. (Def.'s Resp. at 4.) Sabre argues that American has refused to identify exactly what witnesses that it intends to redepose, "except to say that it would select others at its own convenience." (Def.'s Resp. at 4.)

As to American's claims that it cannot use Wilding's deposition against Sabre's co-defendants Travelport and Orbitz because they were not present at the Tarrant County Case deposition, Sabre states that this claim is moot because Travelport and Orbitz have agreed to the use of Wilding's Tarrant County Case deposition as if were taken in this action. (Def.'s Resp. at 5-7.) Sabre argues that a second deposition of any Sabre witness would be "unreasonably cumulative and would subject Sabre and its employees to undue burden and expense." (Def.'s Resp. at 6.) Sabre requests that the Court issue an order protecting Wilding from a second deposition and other Sabre employees from second depositions in this action absent leave of Court and a showing of good cause. (Def.'s Resp. at 11.)

Federal Rule of Civil Procedure 26(b)(1) permits parties to "obtain discovery regarding any nonprivileged matter that is relevant to any party's claim or defense." Pursuant to Rule 30(a), "[a] party may, by oral questions, depose any person, including a party, without leave of court." Fed. R. Civ. P. 30(a).<sup>3</sup> As pertinent to this case, the rule provides that leave of court is only required if the parties have not stipulated to the deposition and (1) the deposition would result in more than 10 depositions being taken, (2) the deponent has already been deposed in the case, or (3) the party seeks to take the deposition before the time specified in Rule 26(d). Fed. R. Civ. P. 30 (a)(2). In addition, the rules provide other limitations and procedural safeguards. For

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<sup>3</sup> Rule 32(a)(8) provides that a "deposition lawfully taken and, if required, filed in any federal- or state-court action may be used in a later action involving the same subject matter between the same parties, or their representatives or successors in interest, to the same extent as if taken in the later action. Fed. R. Civ. P. 32(a)(8) (emphasis added).

example, “[u]nless otherwise stipulated or ordered by the Court, a deposition is limited to 1 day of 7 hours.” Fed. R. Civ. P. 30(d)(1). Further, a court may limit discovery if: (1) “the discovery sought is unreasonably cumulative or duplicative, or can be obtained from some other source that is more convenient, less burdensome, or less expensive;” (2) “the party seeking discovery has had ample opportunity to obtain the information by discovery in the action;” or (3) “the burden or expense of the proposed discovery outweighs its likely benefit.” Fed. R. Civ. P. 26(b)(2)(C).

Pursuant to the rules, American has the right to depose any person, including a party, without leave of court. The rules themselves provide sufficient protections to Sabre and its witnesses by setting forth specific limits on the number of depositions that American is allowed to take in this case and the length of each deposition. American only needs leave of court to conduct such depositions if one of the limited circumstances listed in Rule 30(a)(2) exists, none of which appear to exist at this time.

The Court recognizes that Sabre is in the unenviable position of having to defend itself against two lawsuits in two different Courts. However, based on the facts relating to discovery in this case, the Court finds that it should not, at least at this time, place additional limits on the depositions that American can take with Sabre and its witnesses pursuant to Rule 26(b)(2)(C).

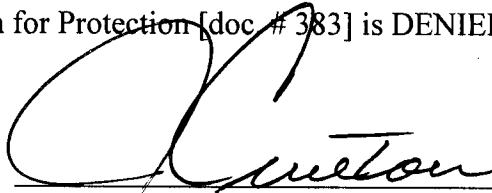
As to Sabre’s argument that, based on Rule 30(a)(2)(A)(ii), American must obtain leave of court to conduct a second deposition of a witness that it has already deposed in the Tarrant County Case, the Court finds that this rule is only applicable when a party seeks to conduct a second deposition of the same witness in the exact **same** federal case. Sabre has not cited to any case law indicating that Rule 30(a)(2)(A)(ii) applies in cases where a party is seeking to depose a witness more than once due the fact that there are two separate but related cases occurring in two different courts.

Once again, the Court is disappointed that the parties or their counsel chose to litigate a discovery dispute that the lawyers should have resolved with little effort, thereby wasting the time and resources of the parties, their counsel, and the Court. The Court would have expected more professionalism.

Based on the foregoing, it is ORDERED that American's Motion to Compel the Depositions of Defendant Sabre's Witnesses [doc. # 377] is GRANTED.<sup>4</sup>

It is further ORDERED that Sabre's Motion for Protection [doc. # 383] is DENIED.

SIGNED September 19, 2012.



JEFFREY L. CURETON  
UNITED STATES MAGISTRATE JUDGE

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<sup>4</sup> The Court notes that an order staying all claims in this case was entered by the Honorable Terry R. Means on September 6, 2012. According to the terms of that order, once the stay automatically expires on December 21, 2012, American has until January 25, 2013 to complete all its depositions. The Court is issuing this order now so that American has time to schedule its depositions in accordance with the Court's September 6, 2012 order. The Court expects Sabre to work with American in good faith to meet the terms of the September 6, 2012 order.