

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

ESTATE OF JAMES FRANKLIN PERRY, et al.,

Plaintiffs,

-vs-

Case No. 12-C-664

CHERYL WENZEL, et al.,

Defendants.

DECISION AND ORDER

Counsel for Milwaukee County, one of the defendants, asked plaintiffs' counsel, James Gende, to produce the information outlined in Fed. R. Civ. P. 26(b)(4)(C) in advance of a video deposition of an expert witness scheduled for January 30. Instead of being agreeable, Gende was belligerent. Gende refused to produce the documents and told defense counsel that he should file a request for production under Fed. R. Civ. P. 34, which would then give the plaintiffs 30 days to respond thereto.

Gende may be technically correct in his interpretation of the Federal Rules of Civil Procedure, but his stance means either that the deposition will have to be rescheduled, or that counsel for Milwaukee County will be forced to conduct a deposition without documents that are necessary to facilitate meaningful examination. This runs counter to the scope and

purpose of the rules which should be “construed and administered to secure the just, speedy, and inexpensive determination of every action and proceeding.” Fed. R. Civ. P. 1.

Common sense and common courtesy suggest that Gende should have produced the documents (nothing in his response suggests that they are unavailable or otherwise difficult to obtain, aside from the fact that they are “out of state”). At minimum Gende should have tried, but by all accounts he didn’t. So now Gende must, but only after he wasted time and resources by forcing the defendants to file an unnecessary motion.

Milwaukee County’s motion [ECF No. 73] is **GRANTED**. Gende is sanctioned for his unreasonable and vexatious conduct under 28 U.S.C. § 1927.

Dated at Milwaukee, Wisconsin, this 26th day of January, 2015.

SO ORDERED:


HON. RUDOLPH T. RANDA
U.S. District Judge