

STATE OF MINNESOTA
COUNTY OF RAMSEY

DISTRICT COURT
SECOND JUDICIAL DISTRICT

Dr. Ba Lam,

File No. C8-02-012545

Plaintiff,

VS.

County of Ramsey, Minnesota ;
Daniel Schacht, office of the Ramsey
County Attorney; and David MacMillan,

ORDER and MEMORANDUM

Defendants.

The above-entitled matter came duly on before the undersigned, a Judge of District Court on the 24th day of April 2007, upon Plaintiff's motions (1) for an Order requiring Defendants' counsel to show cause as to why he should not be held in constructive civil contempt for requiring Ramsey County employees Tom Engh, Terry Noonan and Jerry Auge to disobey subpoenas for their depositions; (2) for and Order compelling Engh, Noonan, and Auge to attend depositions on a date set by the Court; (3) for an Order modifying the First Amended Scheduling Order; (4) for an award of attorney's fees and costs.

The Court also heard Defendants' motions requesting the Court (1) issue a Protective Order regarding future discovery; and (2) quashing the subpoenas.

Based upon all the files, records and proceedings herein, arguments and memoranda of counsel and the Court being fully advised in the premises hereby makes the following:

ORDER

1. That Plaintiff's motion for an Order to Show Cause as to C. David Dietz, Assistant Ramsey County Attorney, is hereby and in all respects denied.

2. That Plaintiff's motion for an Order compelling Engh, Noonan, and Auge to attend depositions on a date set by the Court is hereby denied.

3. That the Plaintiff's motion to amend the First Amended Scheduling Order is granted.

4. That the Court's Civil Case Manager shall issue a Second Amended Scheduling Order extending the jury trial date by forty-five (45) days and adjust the other dates accordingly.

5. That Plaintiff's motion for an award of attorney's fees and costs is hereby denied.

6. That Defendant's motion for a Protective Order is hereby and in all respects granted and incorporated into this Order as Exhibit 1.

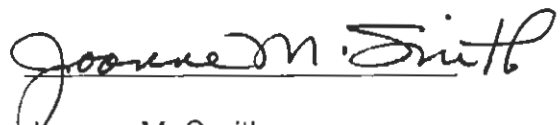
7. That Defendants' motion to quash the subpoenas is hereby granted.

8. Let the attached Memorandum become a part of this Order.

Dated this 30 day of

April 2007

BY THE COURT:


Joanne M. Smith

MEMORANDUM

This lawsuit arose after a related case involving the Plaintiff and Defendant had been settled. Plaintiff now claims that Defendants breached the settlement agreement (contract) and intentionally perpetuated a nuisance.

Counsel for the parties were previously involved in a discovery dispute but after some time tried to work together cooperatively. Those efforts have completely broken down, thus necessitating the court's intervention.

Plaintiff's counsel makes a number of claims against Defendants' counsel which the Court finds are largely unfounded. Previously, the Court granted Plaintiff's request to amend the Scheduling Order by ninety days and authorized Plaintiff's counsel to take a considerable number of depositions. It appears that Plaintiff's counsel waited appropriately sixty days before scheduling any depositions, and as a result, an issue has arisen around the scheduling for the remaining depositions.

In order to allow the parties to complete the depositions, the Court will amend the scheduling order again for the trial date but for only a period of forty-five days.

Further, due to the extreme contentiousness of this matter, the Court finds that a Protective Order is justified. Counsel shall comply with all provisions of the Protective Order or otherwise face sanctions by the Court.

JMS

EXHIBIT 1

PROTECTIVE ORDER

1. Cooperation

Counsel are expected to cooperate with, and be courteous to each other and to deponents.

2. Scheduling

- a. Depositions should ordinarily be noticed 15 days in advance of the date on which the deposition is to take place. Counsel shall use their best efforts to cooperate in scheduling depositions at mutually convenient time and places.
- b. Ordinarily, no more than two depositions may be scheduled on the same day.

3. Postponements

- a. Once a deposition has been scheduled, it shall not be taken off the calendar, rescheduled or relocated less than five calendar days in advance of the date it is scheduled to occur, except upon agreement between the primary examiner designated by the party noticing the deposition and the attorney representing the witness or the Defendants or by leave of Court for good cause.

4. Documents

- a. **Production of Documents.** Witnesses subpoenaed to produce documents should ordinarily be served at least 30 calendar days before the scheduled deposition. Depending upon the quantity of documents to be produced, some time may be needed for inspection of the documents before the interrogation commences.
- b. **Copies.** Extra copies of documents about which deposing counsel expects to examine a deponent should ordinarily be provided to opposing counsel and the deponent at the deposition. Deponents and their counsel should be shown a copy of the document at the deposition before being examined about it, except when

counsel seek to impeach or test the deponent's recollection.