

PAPERLESS ORDER re 37 Order on Motion for Protective Order, 36 Defendant's MOTION for Protective Order re: Plaintiff's Unilaterally Noticed Deposition of Defendant NCL's Corporate Representative filed by NCL (Bahamas) Ltd.

Defendant NCL (Bahamas) Ltd. filed [ECF No. 36] an emergency motion for a protective order last night concerning a routine snafu over the date of a corporate representative deposition. United States District Judge Cecilia M. Altonaga denied [ECF No. 37] the motion because it failed to comply with the Discovery Procedures Order, but she ordered that the corporate representative deposition (which Plaintiff unilaterally scheduled for March 25, 2020) would not take place next week. The Order also explained that NCL need not provide a corporate representative until I decide the dispute.

Presumably, the parties will reschedule the hearing if they still can't on their own resolve a routine deposition scheduling snafu. Nevertheless, I feel compelled to offer some observations in the "let's-keep-things-in-perspective" department.

The entire world is in the midst of a pandemic. Thousands of people worldwide have contracted the Corona virus and there have been hundreds of virus-caused deaths in the United States. Millions of Americans have been ordered to remain in their homes. Millions more have lost their jobs in the past two weeks. The stock market has taken a brutal beating in the last two to three weeks. Many people are scared. Others are panicked. Everyone is unsure about the future. Cruises have been canceled and all the major airlines have severely curtailed their flights.

We are living in an unprecedented situation.

Nevertheless, the lawyers in this case have been exchanging snippy emails over the past two weeks over the scheduling of a corporate representative deposition. Moreover, defense counsel certified that this routine discovery dust-up is so important that it merits "emergency" status.

No, it doesn't.

Local Rule 7.1(d) requires a movant seeking emergency relief to certify that a "true emergency" exists because meaningful relief could not be provided on "a critical, non-routine" issue within seven days. (emphasis added).

A spat over the specific day of a corporate representative deposition is hardly critical. It is, in fact, routine.

Moving past the incorrect and, frankly, reckless designation of this dispute as an "emergency," the Undersigned is shocked that counsel could not on their own resolve the issue. Given the health and economic crisis we are in, not postponing the deposition scheduled for next week is patently unreasonable.

If all the issues we are currently facing were to be organized on a ladder of importance, this deposition-scheduling dispute would not even reach the bottom rung of a 10-rung ladder.

It is painfully obvious that counsel for both sides failed to keep their comparatively unimportant dispute in perspective. Would the world end if the corporate deposition did not occur next week? Obviously not. Is it reasonable to require defense counsel to prepare the 30(b)(6) witness for a

deposition while complying with the social distancing standard of ten feet? Absolutely not. Is it rational to expect defense counsel to enlist assistance from cruise ship attorneys and other employees (e.g., to track down documents and information) to adequately prepare the corporate representative when the entire cruise ship industry is on lockdown and thousands of employees have been let go? Of course not.

So the deposition will not be taken next week. Life will go on. But the Undersigned will be requiring counsel for both sides to appear for a hearing at some point, even if they work out the rescheduled date for the corporate deposition. That hearing will require the attorneys to explain their behavior in context of the far-more-important issues this Court (and the entire world) is facing. Signed by Magistrate Judge Jonathan Goodman on 3/21/2020. (JG) (Entered: 03/21/2020)