

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

Case No. 01-7089-Civ-LENARD/Snow

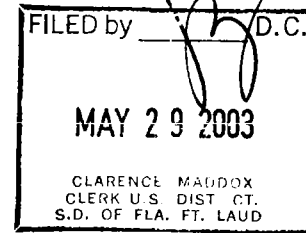
BETH FORRY and EQUAL EMPLOYMENT  
OPPOTRUNITY COMMISSION,

Plaintiffs,

vs.

FEDERATED FINANCIAL SERVICES, INC.,

Defendant.



ORDER

THIS CAUSE is before the Court on various motions filed by the parties, which were referred to United States Magistrate Judge Lurana S. Snow.

On March 19, 2003, the defendant set various depositions between May 13 and June 13, 2003. On April 29, 2003, the plaintiff filed an emergency motion for protective order regarding the situs of the depositions<sup>1</sup> and mediation. On May 6, 2003, prior to receiving the defendant's response, the Court granted the motion to hold mediation on May 15, 2003, in Room 207(d) of Judge Ferguson's suite the Fort Lauderdale Courthouse. The Court denied without prejudice the motion to hold the depositions of the claimants in the Fort Lauderdale Federal Courthouse.

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<sup>1</sup> The plaintiff and other claimants, averring fear of lethal violence by the defendant's principal, Steven Miller, asserted that her deposition and those of four other claimants should be held in a secure location under the control of the United States Marshals. The plaintiff also suggested that Fort Lauderdale was more convenient to the claimants than counsel's office in Deerfield Beach, Florida. However, the defendant points out that three of the claimants live in Deerfield Beach.

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On May 13, 2003, the plaintiff filed a renewed motion (Docket Entry 72) for a protective order for three of the depositions (Ms. Hoffman on May 14, Ms. Busick on May 20 and Ms. Forry on May 21). The plaintiff again asks that the depositions be held in Judge Ferguson's suite in the Federal Courthouse in Fort Lauderdale.<sup>2</sup> Because the motion could not be briefed prior to the start of the scheduled depositions, the defendant cancelled the depositions pending the Court's order on the renewed motion.

The defendant's response asserts that the motion is untimely since it was filed weeks after the depositions were set and on the eve of the first deposition. The defendant provides affidavits in opposition to the plaintiff's affidavits of Mr. Miller's propensity for violence. The defendant suggests that the plaintiff is free to provide, at her own expense, any security measures she deems appropriate, rather than burdening the Court with making arrangements for the depositions.

The undersigned agrees that the Court should not be required to arrange for facilities for depositions in civil cases; moreover Judge Ferguson's rooms are no longer available for use. Accordingly, the motion for a protective order cannot be granted.

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<sup>2</sup> The Court notes that subsequently this case was transferred to the calendar of The Honorable Joan A. Lenard, who sits in Miami, Florida. Accordingly, the plaintiff's proposal to use Judge Ferguson's rooms are moot.

Prior to the filing of the renewed motion for protective order, the plaintiff had noticed depositions of the defendant's principals beginning May 30, 2003, to be held at the EEOC facility in the Claude Pepper Federal Building in Miami, Florida. The defendant's emergency motion (Docket Entry 78) for a protective order asks the Court to stay the plaintiff's depositions until after the defendant has an opportunity to depose the plaintiff and two other claimants, as agreed by the parties. The defendant also asks that the depositions be set at the defendant's principal place of business in Deerfield Beach.

The plaintiff filed an expedited response to this motion, arguing that the Miami is well within the 100-mile distance for non-party depositions set forth in Fed.R.Civ.P. 45(c), whereas the defendant's cases espousing depositions at the party's place of business involved travel between states or countries. The plaintiff insists that the security of the federal building in Miami is necessary because of the security risk posed by Mr. Miller. Finally, the plaintiff asserts that the defendant's unilateral cancelling of its depositions should not be the basis for disturbing the long-standing notices of deposition.

The undersigned finds that the defendant's last-minute objection to the location of the depositions is not persuasive, nor are the witnesses required to travel extensive distances for the depositions. See, Slater v. Upjohn Co., 593 F.2d 649, 651 (5<sup>th</sup> Cir.

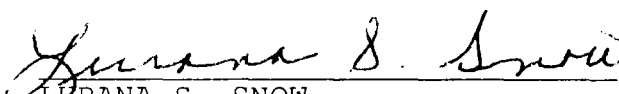
1979)(denying motion to compel deposition requiring corporate travel from Michigan to Alabama); Partecipazioni Bulgari S.p.A., 1988 WL 113346 (S.D.Fla. 1988)(denying motion to compel deposition requiring corporate travel from Greece to Miami, Florida). Since the defendant unilaterally cancelled the claimant's depositions, the Court will not disturb the plaintiff's deposition schedule. With the Court being advised, it is hereby

ORDERED AND ADJUDGED as follows:

1. Plaintiff Beth Forry's and Plaintiff EEOC's Joint Motion for Protective order Regarding Situs of Depositions of Taren Busick, Beth Forry and Sarah Hoffman and for Use of Court's Attorney Conference Room Therefor (Docket Entry 72) is DENIED, although the plaintiffs are free to arrange for private security at the depositions.

Defendant Federated Financial Services Emergency Motion for a Protective Order (Docket Entry 78) is DENIED as to both requests.

DONE AND ORDERED at Fort Lauderdale, Florida, this 29<sup>th</sup> day of May, 2003.

  
LURANA S. SNOW  
UNITED STATES MAGISTRATE JUDGE

Copies to: John Francis Phillips, Esq. (Forry)  
Kenneth Gillespie, Esq. (EEOC)  
Jason Lucas Gunter, Esq (D)  
Stuart A. Rosenfeldt, Esq. (D)