

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

Leoncio Elizarri, et al.,)
)
)
)
Plaintiff,)
)
)
)
 -vs-)
)
)
 Sheriff of Cook County and Cook)
 County, Illinois,)
)
)
Defendants.)

RENEWED MOTION TO AUTHORIZE ONE DEPOSITION BEYOND DISCOVERY DEADLINE

Plaintiffs respectfully renew their motion to authorize one deposition beyond discovery deadline.

Grounds for this motion are as follows:

1. Plaintiffs explained the focus of the additional discovery they intended to pursue in the joint status report filed on October 28, 2020. (ECF No. 127.) As set out therein, “[t]his case changed on September 28, 2020 when defendant Sheriff served an amended answer to interrogatory four of plaintiffs’ second set of interrogatories.” (ECF No. 127, ¶ 2(a).) This interrogatory was verified by Khara Coleman, an Assistant General Counsel to the Sheriff. (The amended interrogatory answer is filed as ECF 127 at 5-7.)

2. On November 16, 2020, the Court denied plaintiffs' motion for class certification. (ECF No. 129.) Plaintiffs' counsel read the Court's order as

a ruling that the Court would not certify any proposed class unless the complaint was amended to add a named plaintiff with a live claim and that the Court would instead dismiss the case as moot. Plaintiffs therefore deferred pursuing additional discovery while they focused on adding a plaintiff with a live claim in an amended the complaint.

3. Plaintiffs filed their motion for leave to add an additional plaintiff in an amended complaint on November 25, 2020. (ECF No. 132) Defendants filed their objections on December 9, 2020 (ECF No. 133) and plaintiffs replied on December 26, 2020. (ECF No. 134.) The Court has not yet ruled on the motion.

4. Plaintiffs continued to defer pursuing additional discovery while their motion to amend was pending before the Court. On December 28, 2020 plaintiffs served their notice of deposition of Khara Coleman, the Assistant General Counsel to the Sheriff who verified the amended interrogatory answers. The notice requested defendant Sheriff to produce Ms. Coleman on January 15, 2021.

5. Defendant did not produce Ms. Coleman on that date. Plaintiffs' undersigned counsel communicated with defense counsel Gerald Dombrowski by email on January 15, 2021, January 19, 2021, and January 25, 2021 about the deposition. Undersigned counsel and Mr. Dombrowski also spoke by telephone

about this matter twice during this period. (Undersigned counsel did not record the date and time of each phone call.)

6. The parties disagree about the propriety of deposing Ms. Coleman. Plaintiffs have attempted to comply with Local Rule 37.2 to resolve the dispute without Court intervention. The additional time sought is needed for the purpose of completing the Local Rule 37.2 process before moving to compel, if necessary.

Plaintiffs therefore respectfully request that the Court extend to February 28, 2021 the time in which the parties may complete the deposition of Khara Coleman.

Respectfully submitted,

/s/ Kenneth N. Flaxman
Kenneth N. Flaxman
ARDC No. 08830399
Joel A. Flaxman
200 S Michigan Ave, Ste 201
Chicago, IL 60604
(312) 427-3200
attorneys for plaintiff