

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

DANIEL RODRIGUEZ,)	
)	Case No. 22 C 6141
<i>Plaintiff,</i>)	
)	Hon. Edmond E. Chang
v.)	District Judge
)	
REYNALDO GUEVARA, <i>et al.</i> ,)	Hon. Beth W. Jantz
)	Magistrate Judge
<i>Defendants.</i>)	

PLAINTIFF’S MOTION FOR RULE TO SHOW CAUSE

Plaintiff, Daniel Rodriguez, respectfully moves the Court to continue the hearing the on its rule to show cause directed to Jason Rivera, currently set for July 24, 2024, to August 2, 2024, stating as follows:

1. On May 8, 2024, Plaintiff filed a motion for rule to show cause regarding critical third-party eyewitness Jason Rivera’s non-appearance at his deposition in this matter. Dkt. 150.

2. On June 11, 2024, the Court granted that motion, set a hearing requiring Jason Rivera to show cause why he has not appeared for his deposition, and providing instructions to Plaintiff’s counsel. Dkt. 161.

3. As explained in the parties’ last status report, Dkt. 163 at 3, on June 13, 2024, pursuant to the Court’s instructions, Plaintiff’s counsel attempted to serve the Court’s order on Jason Rivera personally at the same address where he had been served the past deposition subpoenas. Mr. Rivera was not there, but Plaintiff’s counsel’s investigator served the order, pursuant to Federal Rule of Civil Procedure 5(b)(2)(B)(ii), by leaving it with an adult in Mr. Rivera’s household. At the same time, the person Mr. Rivera’s household said that Mr. Rivera had travelled to Puerto Rico for a family funeral.

4. Shortly after leaving the Court's order, Mr. Rivera called the undersigned, stating that he would be returning to Chicago at the end of June and would sit for a deposition at the place and time that the parties designated.

5. After conferring among counsel, the parties made July 18 available for the deposition of Mr. Rivera, and, on July 8, 2024, the undersigned counsel sent a text message with that date to Mr. Rivera to confirm the date. Exhibit A (text messages with Mr. Rivera). There was no response.

6. On July 15, 2024, the undersigned counsel again asked Mr. Rivera if he would confirm the date of July 18 would work for him, reminding him of the Court's order setting a hearing on July 24 at 10:30 a.m. *Id.* This time, Mr. Rivera, upon information and belief, responded "Wrong number." *Id.*

7. On July 17, 2024, in a last-ditch effort, the undersigned counsel wrote via text again: "Dear Mr. Rivera, This is the attorney for Daniel Rodriguez again. In light of the Court's order in this case, the hearing next week, and the fact that you have not told us of any conflict, we are planning on proceeding with your deposition tomorrow, July 18, 2024, at 311 N. Aberdeen St. in Chicago. If you cannot attend, please let us know." *Id.* Mr. Rivera responded, "How about right now. Work tomorrow." *Id.*

8. After explaining that the deposition could not proceed that instant, that the parties could convene for the deposition on a day this week, and that the deposition had to be completed before July 24, 2024, Mr. Rivera wrote: "STOP SAYING THAT COURT DOESNT MOVE ME. REMEMBER I DONT REMEMBER NOTHING PLAYING THE 5th." *Id.*

9. Counsel continued to communicate with Mr. Rivera, asking whether Monday or Tuesday of this week would work for a deposition, and explaining that counsel wished to make

the process as simple as possible. *Id.* Mr. Rivera could not do those days. *Id.* But he agreed to sit for his deposition at 10 a.m. on Wednesday, July 24, 2024, at the same time that this Court's hearing is set. *Id.* Plaintiff's counsel sent a new notice of the deposition and confirmed the location with Mr. Rivera. *Id.*

10. Plaintiff's counsel does not know whether Mr. Rivera actually intends to appear at his deposition, given the mixed messages, and given the history. However, the parties plan to attend the deposition on Wednesday and hope to take the testimony of this critical witness in this case.

11. Accordingly, Plaintiff asks that the Court reset the hearing on the rule to show cause to August 2, 2024, a date that works for all parties, or the next date thereafter available on the Court's schedule.

12. Defendants have no objection to the relief sought in this motion.

13. If this motion is granted, Plaintiff's counsel will notify Mr. Rivera of the Court's order continuing the hearing, serve a copy of the order on Mr. Rivera at his deposition, or serve a copy of the order of Mr. Rivera by other means if he does not appear this Wednesday.

WHEREFORE, Plaintiff respectfully requests that this Court enter an order continuing the hearing on the rule to show cause to Jason Rivera to August 2, 2024.

July 22, 2024

RESPECTFULLY SUBMITTED,

/s/ Steve Art
Counsel for Plaintiff

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CERTIFICATE OF SERVICE

I, Steve Art, an attorney, hereby certify that, on July 22, 2024, I filed the foregoing motion using the Court's CM/ECF system, which effected service on all counsel of record. In addition, I caused a copy of this motion to be sent by overnight mail to Mr. Rivera at the same address where he was previously served with the deposition subpoenas.

/s/ Steve Art
Counsel for Plaintiff

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