

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

MADELINE MENDOZA,)
)
)
 Plaintiff,)
)
) No. 23-cv-2441
-vs-)
)
 Judge Durkin)
REYNALDO GUEVARA, *et al.*,)
)
)
 Defendants.)

MARILYN MULERO,)
)
)
 Plaintiff,)
)
) No. 23-cv-4795
-vs-)
)
 Judge Durkin)
REYNALDO GUEVARA, *et al.*,)
)
)
 Defendants.)

**PLAINTIFFS' MOTION FOR LEAVE TO CONDUCT DEPOSITION OF
THIRD-PARTY WITNESS JOAN ROBERTS**

Plaintiffs, by their respective counsel, move for leave to conduct the deposition of third-party witness Joan Roberts on April 16, 2025. Despite diligent attempts to serve Ms. Roberts with a deposition subpoena, Plaintiffs were unable to locate her until April 1, 2025, when Ms. Roberts agreed to appear for deposition on April 16, 2025. Plaintiffs state as follows in support of this motion:

1. Joan Roberts is an important witness in this case. She was a jailhouse informant who signed a written statement alleging that plaintiff Mendoza confessed to her role in the underlying crime and she testified to alleged oral admissions made by plaintiff Mulero. Ms. Roberts thereafter recanted her statements, and Plaintiffs allege that Defendants in this case caused her to provide the false statements.

2. Plaintiffs and Defendants all disclosed Ms. Roberts in their initial Rule 26 disclosures. (Exhibit 1, Mendoza Rule 26 Disclosures; Exhibit 2, Mulero Rule 26 Disclosures; Exhibit 3, Defendants' Rule 26 Disclosures).

3. As explained below, despite diligent attempts to locate Ms. Roberts, Plaintiffs were unable to do so before the fact discovery deadline.

4. On November 8, 2024, the parties advised the Court of the status of discovery, including that the parties required the deposition of Ms. Roberts and were working to locate Ms. Roberts and schedule her deposition. (Dkt. 083.) On November 9, 2024, this Court extended the non-*Monell* fact discovery deadline to February 28, 2025. (Dkt. 084.)

5. Plaintiffs then made several attempts to serve Ms. Roberts with a deposition subpoena, including issuing subpoenas on November 12, 2024; November 25, 2024; and January 21, 2025. (Group Exhibit 4, Joan Roberts Deposition Subpoenas.) In conjunction with those efforts, Plaintiff retained a special process server to attempt service. Several attempts were made between November 2024 and February 2025. (Exhibit 5, Joan Roberts Service Activity Report.)¹

6. On December 30, 2024, the parties advised this Court that they still intended to depose Ms. Roberts and of their efforts to effectuate service on Ms. Roberts. (Dkt. 099.)

7. Despite these efforts, Plaintiffs were unable to locate Ms. Roberts prior to the February 28, 2025, non-*Monell* fact discovery deadline.

8. On March 15, 2025, Carter Grant, counsel for Mulero, received a call for the first time from Ms. Roberts advising that she was aware that the parties had been trying to get in contact with her, but that she did not want to be involved. Plaintiffs' counsel made several subsequent attempts to contact Ms. Roberts about a potential deposition, but she did not return their phone calls. On April

¹ Though the attached report notes that Ms. Roberts was served on January 30, 2025, Plaintiffs have since learned that it was Ms. Roberts's sister-in-law who was actually served on that date and time.

1, 2025, Grant received another phone call from Ms. Roberts, and this time, she agreed to sit for a deposition on April 16, 2025.

9. On April 1, 2025, Plaintiffs' counsel advised the Defendants that Ms. Roberts had agreed to sit for a deposition, and pursuant to Rule 37.2, that Plaintiffs intended on filing this motion requesting leave to conduct Ms. Roberts' deposition on April 16, 2025.

10. On April 4, 2025, the Defendants advised that they object to this motion, stating: “[t]he defense's position is that both parties should be held to the same standards and your offices objected to several depositions proceeding that had been noticed before the discovery cutoff based on the discovery cutoff date. If you remove your objection as to those witnesses (or the court allows those depositions to proceed per our pending motion), we do not object to Ms. Roberts deposition proceeding. Otherwise, Defendants object.” (Exhibit 6, Rule 37.2 emails.)

11. The Court should overrule this objection. Plaintiffs did *not* oppose the defense request to hold several depositions after the discovery cut-off because the defense had been diligent in attempting to schedule those depositions. (Dkts. 105, 117.) As set forth herein, Plaintiffs' request for leave to depose Ms. Roberts is consistent with Plaintiffs' earlier position because Plaintiffs have been diligent in pursuing this deposition. Moreover, Defendants' act of tying their objection to Plaintiffs' prior objections and a ruling on unrelated discovery demonstrates that they lack a substantive objection here and there is no concern regarding prejudice.

12. Whether or not Ms. Roberts is deposed, Plaintiffs will rely on her testimony in future stages of this case. Allowing her deposition will therefore serve the interests of justice.

13. The Court has already allowed Defendants to complete several depositions by April 18, 2025. Allowing Plaintiffs to depose Ms. Roberts on April 16, 2025, will therefore not result in delay or prejudice to any party.

WHEREFORE, Plaintiffs respectfully request that this Court grant Plaintiffs' motion for leave to conduct the deposition of third-party witness Joan Roberts on April 16, 2025.

Dated: April 4, 2025

Respectfully submitted,

/s/Carter Grant

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