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UNPUBLISHED OPINION. CHECK COURT RULES BEFORE CITING.

Michigan Circuit Court.
Kathy Malloy CLARKE, Plaintiff,

v.

Daniel J. CLARKE, Defendant.

No. 04-415308-DO.

Nov. 2, 2004.

Mantese and Associates, P.C., [Gerard V. Mantese](#), Mark C. Rossman, Troy, Michigan, for Plaintiff.

[Paul A. Longton](#), Wyandotte, Michigan, Tucker . Tobin, P.C., [Margaret M. Tobin](#), Detroit, MI, for Defendant.

ORDER

LOMBARD, J.

*1 This matter was heard on September 30, 2004, on Plaintiff's Motion for Default Judgment, or in the Alternative, to Compel Defendant to Testify to Cease Defense Counsel's Abusive Deposition Tactics, and for Sanctions Pursuant to [MCR 2.313\(A\)\(5\)](#) and Defendant's Motion to Quash Deposition Request. The Court held a conference with the attorneys for the parties in chambers, and ordered the relief as set forth herein.

IT IS ORDERED that Defendant shall reappear for full and complete deposition unimpeded by any interference or coaching by defense counsel.

IT IS FURTHER ORDERED that Defendant shall pay to the Plaintiff the sum of \$250.00 for the costs and the attorney fees that she has incurred in bringing her motion.

IT IS FURTHER ORDERED that the following guidelines for all depositions in this case are hereby imposed:

1. At the beginning of the deposition, deposing counsel shall instruct the witness to ask deposing counsel, rather than the witness' own counsel, for clarifications, definitions, or explanations of any words, questions, or documents presented during the course of the deposition. The witness shall abide by these instructions. Further, the

witness' counsel shall not take it upon himself or herself to provide such clarifications, definitions, or explanations to the witness, whether asked for such or not.

2. All objections, except those which would be waived if not made at the deposition under the Michigan Court Rules, and those necessary to assert a privilege, to enforce a limitation on evidence directed by the Court, or to present pursuant to the Court Rules, shall be preserved. Therefore, those objections need not and shall not be made during the course of depositions.

3. "Asked and answered" is not valid objection, and counsel shall refrain from making it during depositions.

4. Counsel shall not direct or request that a witness not answer a question, unless that counsel has objected to the questions on the ground that the answer is protected by a privilege, or a limitation on evidence directed by the Court.

5. Counsel shall not make objections or statements which might suggest an answer to a witness. Counsel's statement when making objections should be succinct and verbally economical, stating the basis of the objection only and nothing more.

6. Counsel and their witness-clients shall not engage in private, off the record conference during depositions or during breaks or recesses, except for the purpose of deciding whether to assert a privilege.

7. In no event shall the non-examining attorney ask questions of the deponent during the examining attorney's examination of the deponent. The non-examining attorney shall wait until opposing counsel is finished with his or her examination of the deponent, and then the non-examining attorney will have the opportunity to examine the deponent.

8. Deposing counsel shall provide to the witness's counsel a copy of all documents shown to the witness during the deposition. The copies shall be provided either before the deposition begins or contemporaneously with the showing of each document to the witness. The witness and the witness's counsel do not have the right to discuss the documents privately before the witness answers questions about them.

*2 IT IS FURTHER ORDERED that the Defendant's Motion to Quash Deposition Request is denied, and

Not Reported in N.W.2d

2004 WL 2584833 (Mich.Cir.Ct.)

(Cite as: **2004 WL 2584833 (Mich.Cir.Ct.)**)

Defendant's deposition shall resume at a time and on a date that is mutually agreeable to the parties and their counsel.

2004 WL 2584833 (Mich.Cir.Ct.)

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