

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

CareToLive, et al.,

v.

Andrew von ESCHENBACH, et al.

No. 2:07-cv-00729-GLF-NMK

Judge Gregory L. Frost

Magistrate Judge Norah McCann King

DEFENDANTS' MOTION TO QUASH NOTICES OF DEPOSITION

On September 12, 2007, defendants filed a motion for protective order (Doc. 26) due to – among other improper discovery that plaintiff CareToLive (“CTL”) was seeking – a notice of deposition for defendant Dr. Andrew von Eschenbach. Doc. 24 (noticing Dr. von Eschenbach’s deposition for Oct. 5, 2007). After a previously-scheduled conference the following day, September 13, 2007, this Court ordered that, “because there is a pending motion for a protective order (Doc. # 26), . . . *no discovery shall be permitted pending resolution [of] that motion.*” Doc. 27, at 1-2 (emphasis added).

Yesterday, without consulting defendants, and in direct violation of the Court’s September 13, 2007 Order, CTL filed notices of *ten* depositions of various FDA and HHS officials – among them, a *second* notice of deposition for Dr. von Eschenbach. Doc. 49 & Ex. 1 at 10 (noticing Dr. von Eschenbach’s deposition for Nov. 9, 2007).

CTL’s continued disregard for the rules of civil procedure and this Court’s orders should not be countenanced. Defendants respectfully repeat the arguments previously raised in our pending motion for protective order (Doc. 26) and reply (Doc. 36), and request that the Court quash CTL’s most recent improper notices of deposition. Defendants further request that CTL be

admonished to abstain from any further attempt to seek discovery in this matter pending resolution of defendants' motion for protective order and/or motions to dismiss.

WHEREFORE, Defendants respectfully move for an order quashing the notices of deposition filed by CTL on Sunday, October 28, 2007 (Doc. 49).

Dated: October 29, 2007
Washington, D.C.

Respectfully submitted,

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CERTIFICATE OF SERVICE

Pursuant to S.D. Ohio Civ. R. 5.2(a) and Fed. R. Civ. P. 5(d), I hereby certify that the above “Defendants’ Motion to Quash Depositions” is being filed through this Court’s Electronic Case Filing system, and will thereby be served upon plaintiff’s counsel.

Dated: October 29, 2007
Washington, D.C.

By: /s/ {FILED ELECTRONICALLY}

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