

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

SHAUN HARNER	:	CIVIL ACTION
	:	
	:	
v.	:	
	:	
	:	
GREYHOUND LINES, INC.	:	NO. 02-0088

**MEMORANDUM AND ORDER**

HUTTON, J.

January 10, 2003

Currently before the Court are Plaintiff's Motion to Compel More Specific Answers and to Compel Deposition of Corporate Designee (Docket No. 5), Plaintiff's Motion for Protective Order (Docket No. 6), Greyhound's Response to Plaintiff's Motion to Compel (Docket No. 7), Memorandum of law in Support of Greyhound's Response in Opposition to Plaintiff's Motion to Compel (Docket No. 8), Motion of Plaintiff to Compel 30(b)(6) Deponent (Docket No. 13), and Defendant Greyhound Lines, Inc. Response to Plaintiffs Motion to Compel 30(b)(6) Deponent (Docket No. 17).

**I. BACKGROUND**

Plaintiff, Shaun Harner, is a wheelchair bound paraplegic. He alleges that he bought a Greyhound bus ticket from where he lives in Pine Grove, Pennsylvania to Hammond, Louisiana. His primary claim is that he was mistreated by Greyhound during his trip. Plaintiff also complains that he suffered a laceration while being manually lifted from his wheelchair. Plaintiff sought no treatment

for this cut, has not suffered monetary loss and has identified no witnesses to the alleged misconduct. Plaintiff comes before the court seeking redress for alleged violations of Title III of the Americans with Disabilities Act, 42 U.S.C. § 12184.

Defendant filed his Complaint on January 4, 2002 to which the Defendant filed an Answer on February 15, 2002. In the interim, on February 1, 2002, Plaintiff served Defendant with Plaintiff's first set of Interrogatories, Requests for Production of Documents and Initial Disclosures. Plaintiff wrote to Defendant several times concerning the requests for Discovery. See Plnt. Exts "B," "C," and "E." On July 15, 2002, Defendant served Plaintiff with its responses. Feeling Defendant's responses inadequate, Plaintiff wrote a letter dated August 1, 2002, seeking more complete answers. See Ext. "G." In the same letter, Plaintiff gave Defendant notice of the deposition of Defendant's corporate designee. See Ext. "G." Plaintiff has yet to receive a response to this letter.

## **II. DISCUSSION**

### **A. Interrogatories**

The liberal rules of federal discovery are designed to enable the parties to "obtain the fullest possible knowledge of the issues and facts before trial." Schwarkopf Technologies Corp., v. Ingersoll Cutting Tool Co., 142 F.R.D. 420, 422 (D. Del. 1992) (citing Grinnell Corp. v. Hackett, 70 F.R.D. 326 (D.R.I. 1976)).

Plaintiff asserts that Defendant gave inadequate and evasive answers, contending that the interrogatories were protected by the attorney/client privilege or work product doctrine. Requested information becomes work product when it may reveal the defense's strategy. Plant Genetic Systems, N.V., v. Northrup King Co., 174 F.R.D. 330, 331-332 (D. Del. 1997). The interrogatories in question do not fall within the definition.

Moreover, the Defendant correctly asserts that interrogatory #4 is a "contentious interrogatory," which is an interrogatory asking for a description of all facts on which a party bases its contention. See B. Braun Medical Inc. v. Abbot Laboratories, 155 F.R.D. 525, 527 (E.D. Pa. 1994). Defendant also correctly asserts that contentious interrogatories are often deferred until the end of discovery. Id. However, due to the fact that Defendant made this objection on July 15, 2002, five months after the Answers were due, and a mere one month before the original discovery deadline, Defendant's objection is without merit at this stage of the litigation. Accordingly, Defendant must answer interrogatory #4.

Defendant's assertion that "securement devices" must be further defined has merit. Plaintiff alleges that his wheelchair was lost. Defense counsel contacted Plaintiff so as to determine if "securement device" meant securing the wheelchair with the luggage, securing the wheelchair on the lift, securing the wheelchair when in the bus, or any other meaning. Plaintiff

allegedly stated that he would get back to the Defendant on this matter, but has yet to define the term. In any event, Plaintiff must specify what is meant by "securement device" so that Defendant's answers may be "reasonably calculated to lead to the discovery of admissible evidence." F.R.C.P. 26(5)(b).

**B. Document Request**

The liberal philosophy of Federal discovery should enable both parties to be provided with "information essential to proper litigation on all of the relevant facts." S.S. Fretz, Jr., Inc. v. White Consolidated Industries, Inc., CIV.A. No. 90-1731, 1991 WL 21655 \*2 (E.D. Pa. Feb. 15, 1991). Discovery will proceed as long as information requested is relevant to the issues, made in good faith and not unduly burdensome. Id. at \*2 (citing M. Bereson Co. v. Faneuil Hall Marketplace, Inc., 103 F.R.D. 635 (D. Mass. 1984)). Although liberal, the discovery process has limitations. Upon a showing of good cause, a court "may make any order which justice so requires to protect a party ... from annoyance, embarrassment, oppression or undue burden or expense ...." F.R.C.P. 26(c). The party resisting discovery bears the burden of showing that the requested information is not discoverable, Flora v. Hamilton, 81 F.R.D. 576 (M.D.N.C. 1978), that is, "that the requested documents either do not come within the broad scope of relevance defined pursuant to Federal Rule of Civil Procedure 26(b)(1) or else are of such marginal relevance that the potential harm occasioned by

discovery would outweigh the ordinary presumption in favor of broad disclosure." See Barnes Foundation v. Township of Lower Merion, CIV.A. No. 96-372, 1996 WL 653114 (E.D. Pa. Nov. 1, 1996) (quoting Thompson v. Glenmede Trust Co., CIV.A. No. 9205233, 1995 WL 752443, \*2 (E.D. Pa. Dec. 19, 1995)). The opposing party may not simply assert that the request is oppressive or burdensome without detailing the nature and extent of the burden. Barnes Foundation, 1996 WL 653114 \*2 (citing Martin v. Easton Publishing Co., 85 F.R.D. 312, 316 (E.D. Pa. 1980)); see also Josephs v. Harris Corp., 677 F.2d 985, 992 (3d Cir. 1982) (holding that merely stating that a discovery request is "overly broad, burdensome, and irrelevant" is not sufficient to make a successful objection).

Defendant asserts that Plaintiff's document requests cover hundreds of thousands of documents for Greyhound's entire fleet of buses. Specifically, Defendant objects to Document Request No.4, which seeks "[a]ll documents relating to communications, meetings and or conversations between Greyhound and persons with disabilities, government entities, organizations representing persons with disabilities or any other entity or person concerning the person concerning the transportation of person with disabilities." Document request No. 5 seeks "all documents relating to the transportation of persons with disabilities ...." As the opposing party, however, Defendant does not go beyond its assertion that such requests are "vexatious and constitute

harassment." See Deft. Memo. in Opp. to Plnt. Motion to Compel at 3. Keeping the liberal scope of discovery in mind, this Court agrees with the Defendant only to the extent that Plaintiff must narrow its focus to documents within the past five years concerning persons with physical disabilities.

Defendant also objects to Document request No. 14, which again concerns the definition of "seurement devices." See, supra, p. 4. Plaintiff must specify what is meant by "seurement device" so that Defendant's answers may be "reasonably calculated to lead to the discovery of admissible evidence." F.R.C.P. 26(5)(b).

**C. Initial Disclosures**

Federal Rule of Civil Procedure 26(a)(1) provides for discovery of "Initial Disclosures," which are enumerated categories of information which "a party must, without awaiting a discovery request, provide [such information] to other parties." F.R.C.P. 26(a)(1). Accordingly, Defendant is required to provide initial disclosures to the Plaintiff within ten (10) days of this Court's order.

**D. Corporate Designee**

Upon considering Plaintiff's Motion to Compel a Corporate Designee (Docket No. 5, 13), and Defendant Greyhound Lines, Inc. Response to Plaintiffs Motion to Compel 30(b)(6) Deponent (Docket

No. 17), Plaintiff's Motion is denied as moot.<sup>1</sup>

**E. Protective Order**

Plaintiff's Motion for a protective order is denied as moot.<sup>2</sup>

An Appropriate Order follows.

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<sup>1</sup> Plaintiff deposed Defendant's corporate designee on December 20, 2002. Accordingly, Plaintiff's Motion is Denied.

<sup>2</sup>

A motion for a protective order is an extraordinary remedy. Plaintiff sought relief from the existing scheduling order due to the fact that the Motion to Compel had not been adjudicated. Because the Motion to Compel has been addressed, and because a new scheduling order has been issued, Plaintiff's Motion for a Protective Order is denied as moot.

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GREYHOUND LINES, INC.	:	NO. 02-0088

ORDER

AND NOW, this 10<sup>TH</sup> day of January, 2003, upon consideration of Plaintiff's Motion to Compel More Specific Answers and to Compel Deposition of Corporate Designee (Docket No. 5), Plaintiff's Motion for Protective Order (Docket No. 6), Greyhound's Response to Plaintiff's Motion to Compel (Docket No. 7), Memorandum of law in Support of Greyhound's Response in Opposition to Plaintiff's Motion to Compel (Docket No. 8), IT IS HEREBY ORDERED that:

(1) Plaintiff's Motion to Compel Answers is **GRANTED IN PART AND DENIED IN PART;**

(2) Defendant is ordered to supply more specific answers, in accordance with the Court's Memorandum, to Plaintiff's interrogatories within twenty (20) days of the date of this Order;

(3) Plaintiff's Motion to Compel Defendant's Production of Requested Documents is **GRANTED IN PART AND DENIED IN PART;**

(4) Defendant is ordered to supply the documents requested, in accordance with the limits in the Court's Memorandum within twenty (20) days of the date of this Order;

(5) Plaintiff's Motion to Compel Defendant to Produce a Corporate Designee is **DENIED AS MOOT; and**

(6) The expert disclosure deadline is extended thirty (30) days from the date of this Order.

BY THE COURT:

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HERBERT J. HUTTON, J.