

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MISSISSIPPI
DIVISION**

PLAINTIFF

VS.

CIVIL ACTION NO.

DEFENDANT

**MOTION FOR PROTECTIVE ORDER, MOTION TO QUASH AND
OBJECTION TO NOTICE OF DEPOSITION DUCES TECUM**

COMES NOW, Plaintiff, _____, by and through his/her attorney of record and files this his/her Motion for Protective Order, Motion to Quash and Objection to Notice of Deposition Duces Tecum and in support thereof states the following:

1.

At approximately _____ a.m./p.m. on _____, _____, 20____, counsel for Defendant _____ transmitted to counsel for _____ via facsimile a "Notice to Take Depositions Duces Tecum" (the "Notice") scheduling each of _____ (_____) designated experts for oral depositions in _____, Mississippi on _____, _____, 20____, with the first deposition commencing at _____ : _____ .m. A copy of the Notice is attached as Exhibit _____ and incorporated by reference.

2.

The Notice is unreasonable, unduly burdensome and abusive and _____ moves for a protective order prohibiting the taking of said depositions as scheduled. At the time counsel for _____ filed the Notice, it was obvious that _____ could not make arrangements to have his/her experts available on approximately _____ hours notice (at most), particularly when one of the experts lives in _____ and another lives in _____. Furthermore, _____ submits that _____ deliberately transmitted the Notice after normal business hours (_____ a.m./p.m. _____ time) in the hopes that counsel for _____ would not find the notices until arrival for work on morning. In fact, counsel for _____ spoke with counsel for _____ on the afternoon of _____, _____,

, , regarding discovery disputes and expert depositions and reports, but counsel for never mentioned taking depositions on , , 20 .

3.

To the extent the Notice is deemed a Subpoena Duces Tecum, objects on the basis that the subpoena fails to comply with the requirements of Rule 45. The purported subpoena (i) is not in proper form, (ii) was not served on the witnesses, (iii) does not allow a reasonable time for compliance, (iv) subjects the witnesses to undue burden, (v) requires () experts to travel more than miles from where they reside, are employed or regularly transact business, and (vi) is overly broad and appears to seek some information that may be protected by the work-product doctrine. In addition, has failed to tender fees, mileage and reasonable compensation for attending the deposition. Clearly, less than 14 days notice for inspection of the designated materials has been provided. Accordingly, objects to the inspection of the designated materials and moves that the subpoena be quashed.

4.

respectfully requests that this Motion be treated as an urgent or Necessitous matter and the Court set a hearing of this Motion as soon as possible.

WHEREFORE, PREMISES CONSIDERED, Plaintiff respectfully moves the Court to enter a protective order prohibiting the taking of the depositions set forth in the Notice to Take Depositions Duces Tecum served by Defendant as scheduled and to quash the Notice to Take Depositions Duces Tecum to the extent that it is deemed a subpoena. Plaintiff also requests that this matter be treated as urgent and necessitous and be heard as soon as possible.

And, Plaintiff moves for such other general relief as is proper in the premises.

THIS the day of , 20 .

Respectfully submitted,

Attorney for

Of counsel:

Telephone:
MSB #
Attorney for

CERTIFICATE OF SERVICE

I, _____, do hereby certify that I have this day mailed and transmitted via facsimile, a true and correct copy of the above and foregoing MOTION FOR PROTECTIVE ORDER, MOTION TO QUASH AND OBJECTION TO NOTICE OF DEPOSITION DUCES TECUM to

.

This the _____ day of _____, 20____.
