UNITED STATES DISTRICT COURT

DISTRICT OF CONNECTICUT

UNITED RENTALS (NORTH AMERICA), INC. & UNITED RENTALS, INC.	:
Plaintiffs,	:
	:
-vs-	: Civ. No. 3:02cv995 (PCD)
	:
VINCENT NARDI *et al.*,	:
Defendants.	:

RULING ON DEFENDANTS' MOTION FOR PROTECTIVE ORDER

Defendants[1] move for a protective order precluding responses to various discovery requests by plaintiffs. For the reasons set forth herein, defendants' motion for a protective order is denied.

I. BACKGROUND

On July 1, 2002, at a hearing on plaintiffs' motion for a temporary restraining order seeking, *inter alia*, the extension of a non-competition agreement applicable to defendants Vincent Nardi and Guy Paparella. The parties were authorized to conduct discovery in preparation for a preliminary injunction hearing scheduled for July 22, 2002.[2] On July 5, 2002, plaintiffs served various interrogatories and requests for production requiring a response by July 15, 2002. On July 8, 2002, plaintiffs served notice of five depositions to be held in Georgia and Florida scheduled on five separate days starting on July 12, 2002. One of the deponents, Anthony Leon, who provided an affidavit

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1 The corporate defendants adopted the individual defendants' motion for a protective order.

2 The present ruling will not address defendants' argument that only they were authorized to conduct discovery and thus are entitled to an order barring plaintiffs from engaging in discovery. All parties have since been informed that discovery in preparation for the preliminary injunction hearing is not so limited.

submitted in support of plaintiff's motion for a preliminary injunction, indicated that he was unavailable to be deposed on July 15, 2002 because of a long-planned family vacation during that week, but would return the week of July 22nd. Defendants in turn have noticed the depositions for several of plaintiff's employees during the week of July 15, 2002 in addition to a July 11, 2002 deposition in Wisconsin.

II. DISCUSSION

Defendants move for a protective order prohibiting discovery requests argued to be for purposes of harassing defendants and interfering with attempts to pursue discovery in preparation for the scheduled preliminary injunction hearing. Plaintiffs respond that the requests are reasonable and not designed to harass defendants.

A. Standard

"Where . . . the [discovery is] relevant, the burden is upon the party seeking . . . a protective order to show good cause." *Penthouse Int'l, Ltd. v. Playboy Enters.*, 663 F.2d 371, 391 (2d Cir. 1981) (citation omitted); *see also* FED. R. CIV. P. 26(c); *Dove v. Atl. Capital Corp.*, 963 F.2d 15, 19 (2d Cir. 1992) (burden is on moving party to show good cause). FED. R. CIV. P. 26(c), however, "is not a blanket authorization for the court to prohibit disclosure of information whenever it deems it advisable to do so, but is rather a grant of power to impose conditions on discovery in order to prevent injury, harassment, or abuse of the court's processes." *Bridge C.A.T. Scan Assocs. v. Technicare Corp.*, 710 F.2d 940, 944-45 (2d Cir. 1983).

B. Analysis

The short term of the present discovery schedule is likely to present conflicts among the various parties represented. The discovery contemplated on July 1, 2002 was not intended to be six months of

discovery compressed into three weeks but rather that reasonably necessary to present opposing arguments at the preliminary injunction hearing. The determination as to what is reasonably necessary will not be made in a ruling on a motion for protective order as such a determination may impair the ability of a party to argue its position at the hearing.

With this in mind, it is not evident that plaintiffs discovery requests justifies issuance of a protective order. If defendants provide affidavits in support of their position, it is not unreasonable that plaintiffs would seek to depose the affiants. The depositions scheduled are not unduly burdensome given the multi-state aspect of the present case. Mr. Leon's deposition will not be prevented as his affidavit was submitted to this Court in support of defendants' position and plaintiffs should therefore be permitted to depose him prior to the hearing on July 22, 2002, notwithstanding the inconvenience such a deposition may impose on him. The motion for a protective order is denied.

III. CONCLUSION

Plaintiff's motion for a protective order (Doc. ___) is **denied**. It is suggested that all parties put forth the effort to attempt to deconflict the apparent scheduling conflicts on the short term and further attempt to reach a mutually agreeable alternative to a preliminary injunction.

SO ORDERED.

Dated at New Haven, Connecticut, July ___, 2002.

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Peter C. Dorsey

United States District Judge