IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, LAW DIVISION

Mary Paniotte, special administrator of the estate of Emmanuel G. Paniotte, deceased, Plaintiff, v. Evanston Northwestern Health Care Corporation d/b/a Evanston Hospital, a corporation, Advanced Medical Resources LLC d/b/a AMR Pronurse LLC, a corporation, Network Medical Staffing, Inc., Terry Hanusa, M.D., Feyishara M. Sulaiman, and Zaid Dawodu, Defendants.	)	No. 10 L 13626

MEMORANDUM OPINION AND ORDER

Circuit courts are afforded wide latitude in ruling on discovery matters. One defendant recently served two co-defendants with requests to admit 22 months after the close of written discovery. Other than a few requests seeking to establish the evidentiary foundation of certain documents, the requests are unnecessary, irrelevant, or could lead to the reopening of written or oral discovery; consequently, the co-defendants' motions to strike the requests to admit are granted, in part, and denied, in part.

FACTS

On April 23, 2012, Judge Randye A. Kogan ordered the parties to issue by May 7, 2012 all remaining written discovery pursuant to Illinois Supreme Court Rule 213(f)(1) and (f)(2) or it would be waived. On March 7, 2014, defendant Evanston Northwestern Health Care Corporation filed 30 Illinois Supreme Court Rule 216 requests to admit and served them on two co-defendants, Advanced Medical Resources, LLC (AMR) and Medical Staffing Network, Inc. (MSN). Three requests seek admissions as to the evidentiary foundation of three agreements. The remaining requests in each set seek admissions as to: (1) the agreements' terms; (2) whether AMR and MSN purchased insurance; (3) whether they were nurse agencies under state law; and (4) employment and identification issues as to an alleged employee. AMR and MSN each filed motions to strike the Rule 216 requests as being untimely.

ANALYSIS

Illinois Supreme Court Rule 216 is a discovery tool, *see Bright v. Dicke*, 166 2d. 204, 208 (1995), but its purpose is not so much to discover information as to reduce the number of disputed issues before the trier of fact. *See Vision Point of Sale, Inc. v. Haas*, 226 Ill. 2d 334, 345-47 (2007). Requests to admit are used mostly to obtain judicial admissions through opinions and to avoid laying evidentiary foundation for documents. Requests to admit may not, however, be used to obtain admissions to legal conclusions. *See P.R.S. Int'l v. Shred Pax Corp.*, 184 Ill. 2d 224, 236 (1998) (admission as to ordinary or "ultimate" facts is the proper scope of rule).

Trial courts have considerable latitude in ruling on discovery matters. *Avery v. Sabbia*, 301 Ill. App. 3d 465, 471 (1st Dist. 1997). To that end, the Supreme Court Rules authorize a court to enter a protective order "denying, limiting, conditioning, or regulating discovery to prevent unreasonable annoyance, expense, embarrassment, disadvantage, or oppression." Ill. S. Ct. R. 201(c). This may include entering a protective order and quashing written discovery. *Doe v. Delnor Comm. Health Sys.*, 2011 IL App (2d) 100880-U ¶ 27 (barring Rule 216 requests to admit issued more than one year after the close of fact discovery).

In this case, an overarching problem with Evanston Northwestern's requests to admit is timing. Fact discovery closed on April 23, 2012, yet Evanston Northwestern filed its Rule 216 requests to admit on March 7, 2014, 22 months later. While this single factor could be sufficient to defeat each of Evanston Northwestern's requests to admit, this court prefers to look at each and balance its value in achieving the goals of Rule 216 against the potential prejudice to the respondents and the potential for having to re-open written or oral discovery based on admissions or denials.

AMR Request 1 seeks an admission as to the evidentiary foundation of a managed staffing agreement, while MSN Request 1 seeks an admission as to the evidentiary foundation of an asset purchase agreement. Evanston Northwestern properly attached copies of those agreements to its requests. Since these requests merely seek to short circuit the need to lay an evidentiary foundation for these two agreements, these requests certainly go toward achieving the goal of Rule 216. These requests are, therefore, to be answered by AMR and MSN.

AMR Requests 2-7 and MSN Requests 2-8 seek admissions as to the meaning of various contractual terms and whether the respondents fulfilled their alleged contractual duties. These requests are unnecessary since the agreements speak for themselves given AMR and MSN's admissions or denials to the first requests. Further, whether any party has fulfilled alleged contractual terms often requires a detailed analysis of those terms and results in a nuanced answer not suitable to an absolute admission or denial. This court concludes that these requests concern

topics better left for fuller explanation through witness testimony. These requests are stricken.

AMR Request 8 and MSN Request 9 seek admissions that each respondent was a "nurse agency" as defined under the Illinois Nurse Agency Licensing Act. These requests patently attempt to elicit a legal conclusion and are, therefore, barred by Rule 216. These requests are stricken.

AMR Requests 9-18 and 21-30 and MSN Requests 10-30 seek admissions relating to the hiring, training, and supervision of Feyishara M. Sulaiman. Evanston Northwestern did not attach to its requests the evidence on which these requests are based (assuming that AMR and MSN already know of that evidence). Since the evidence is unavailable to this court, and the court is unwilling to sift through it, the wiser approach is to permit the parties to raise these issues with Sulaiman and other witnesses. The court is further concerned that these requests may be linked to AMR Request 8 and MSN Request 9, in which case admissions or denials to the requests would be irrelevant given the improper nature of AMR Request 8 and MSN Request 9. These requests are, therefore, stricken.

AMR Request 19 seeks an admission as to the effective date of an asset purchase agreement, a copy of which Evanston Northwestern attached as an exhibit. As with AMR Request 1, AMR Request 19 is merely seeking an evidentiary foundation as to a document likely to be used at trial. This request furthers the goal of Rule 216; consequently, AMR is ordered to answer it.

AMR Request 20 is unnecessary as were AMR Requests 2-7 because this request seeks an admission as to the allegedly binding nature of contractual rights and obligations. These rights and obligations are either spelled out in the contract, in which case an admission is unnecessary, or their scope is disputed, in which case a denial will not further the goal of Rule 216. This request is, therefore, stricken.

CONCLUSION

Based on the explanation provided above, it is ordered that:

1. AMR and MSN's motions to bar are granted, in part, and denied, in part;
2. AMR is ordered to answer AMR Requests 1 and 19 by April 25, 2014;
3. MSN is ordered to answer MSN Request 1 by April 25, 2014;
4. The remaining requests to admit to AMR and MSN are stricken.

Judge John H. Ehrlich

APR 03 2014

Circuit Court 2075

John H. Ehrlich, Circuit Court Judge