

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
) CIVIL ACTION NO. 73 C 1529 (EN)
)
 v.)
) MEMORANDUM OF THE UNITED STATES IN
 FRED C. TRUMP, DONALD TRUMP) SUPPORT OF THE ENTRY OF AN ORDER
 and TRUMP MANAGEMENT, INC.,) TO SHOW CAUSE
)
 Defendants.)
 _____)

On or about July 26, 1974, defendants filed a Notice of Motion seeking an adjudication of contempt against Donna F. Goldstein, a Department of Justice attorney assigned to this case, and a "cease and desist" order against the United States. In five affidavits including that of defense counsel Roy Cohn, defendants allege that Ms. Goldstein has, among other things, threatened and sought to influence the testimony of prospective witnesses in this case. The defendants have requested a hearing on this matter on August 16, 1974.

The United States has filed a response supported by affidavits of Frank E. Schwelb, Chief of the Housing Section, Civil Rights Division, Department of Justice, and of Ms. Goldstein denying each and every allegation of improper conduct. In preparation of the

hearing on August 16, 1974, the United States has noticed the depositions of several of the affiants who have made accusations against Ms. Goldstein, as well as of defendant Donald Trump. Brief interrogatories have also been served on counsel for the defendants to determine the pertinent details of any alleged incident of misconduct by plaintiff's attorneys. In addition, the United States has applied for an Order to Show Cause why

(1) defendants should not be required to answer plaintiff's interrogatories with respect to the pending motion within five days of service thereof; and

(2) the depositions should not be supervised by an officer of the Court.

A. Defendants Should Be Required to Respond to the Interrogatories Within Five Days of Service.

Rule 33(b) of the Federal Rules of Civil Procedure vests the Court with discretion to shorten the time permitted for responding to Interrogatories. In this case, defendants have made serious accusations against the United States and, in particular, against one of its counsel, Donna F. Goldstein. They seek to bring the matter on for hearing on August 16, 1974. The United States is entitled to take the depositions of several persons who have information about these charges and to otherwise prepare for the hearing, and cannot do so unless their identities are disclosed.


Defense counsel Roy Cohn in his affidavit indicated that only some of the persons who had complained of attorney Goldstein's behavior had signed statements for submission with defendants' pleading. In order to prepare for the hearing and assure that Ms. Goldstein's rights are fully protected, plaintiff is entitled to advance knowledge of the purported case against her. Plaintiff's interrogatories are brief and can be responsively answered in a short time, and there is no reason why an immediate response cannot be forthcoming.

B. The Depositions Should Be Supervised by an Officer of this Court.

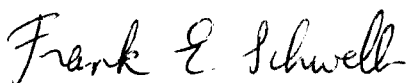
The basic thrust of defendants' motion is that plaintiff's counsel have unduly influenced the testimony of prospective witnesses. Plaintiff contends, however, that the allegations are false and have the effect of preventing the expedited consideration of the case which the statute requires. 42 U.S.C. 3614. The affidavits of two of plaintiff's counsel -- Elyse Goldweber and Donna F. Goldstein -- disclose that at least one of the prospective deponents -- Thomas Miranda -- has on two separate occasions expressed fear of reprisal from defendants if he should testify to the discriminatory practices of which he is aware. Magistrate Cattogio has found the defendants to have been in noncompliance with discovery procedures.

With the issue herein being whether either side has used unlawful tactics vis-a-vis witnesses, it is imperative that their sworn testimony be given without interference or pressure from any source. Accordingly, the depositions should be conducted before an officer of this Court. 4 Moore's Federal Practice §28.02, p. 1915; Fisher v. Harris, 61 F.R.D. 447 (S.D. N.Y. 1973); Shapiro v. Freeman, 38 F.R.D. 308 (S.D. N.Y. 1965); see also First Iowa Hydro Elec. Coop. v. Iowa-Illinois Gas and Elec. Co., 245 F. 2d 613 (8th Cir. 1957), cert. denied 355 U.S. 871 (1957).

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