

IN THE IOWA DISTRICT COURT IN AND FOR OSCEOLA COUNTY

CITY OF HARRIS,

Plaintiff,

vs.

DORSEY & WHITNEY, LLP,

Defendant.

Case No. LACV021209

ORDER

This matter came before the court on April 7, 2023, for hearing on Defendant's Second Motion to Compel filed 2/13/23. Plaintiff appeared by attorneys Dan DeKoter and Brandon Krikke. Defendants appeared by attorneys William Miller, Peter Lancaster, and Angela Dralle. Attorney John Gray also appeared on behalf of Third-Party Defendant DeKoter, Thole, Dawson, Rockman & Krikke, P.L.C. The hearing was held by Zoom videoconference and was reported.

As noted above, this Second Motion to Compel was filed on February 13, 2023. The court is aware that that same date, a new Petition was filed in Osceola County District Court revolving around the same facts wherein Osceola County is now the Plaintiff and Dorsey & Whitney is the Defendant (Osceola County No. LACV021430). The next day, on February 14, 2023, Plaintiff filed a Dismissal Without Prejudice of its claims in the current litigation.

The filing of the dismissal generally divests this court of ongoing jurisdiction over the pending motion. An exception, however, exists under Iowa law that allows the court to retain jurisdiction to adjudicate motions for sanctions. A request for sanctions was included in Defendant's Second Motion to Compel.

Without knowing the exact number, it is obvious to the court that the discovery in this

matter has included several thousands of pages of documents. Disputes over discovery had been ongoing up to, and including, the current Motion to Compel. Given the complicated nature of the discovery and the ongoing litigation in the subsequently filed lawsuit in Osceola County LACV021430, this court is not inclined to issue any sanction that would impact the evidence and record in that pending litigation.

The court does find, however, that sanctions should be imposed due to counsel's failure to meet and confer regarding the most recent discovery dispute. Counsel for Defendant attempted to meet and confer with counsel for Plaintiff prior to filing their Second Motion to Compel. Counsel for Defendant attempted to meet and confer with counsel for Plaintiff via telephone prior to filing the current motion. Counsel for Dorsey identified in written communication the date and time the call would occur. Upon making the call, counsel for Harris refused to take the call, claiming to be "out of the office." The record suggests that counsel was available, but he simply refused to take the call unless counsel for Dorsey provided, prior to any meet and confer, some written correspondence outlining their position regarding the privilege log. Counsel for Harris concedes that he refused to confer without such a letter. The record suggests that Dorsey's ongoing concerns were apparent. Furthermore, counsel for Harris does not cite any rule or authority for this position. Counsel for Harris did not provide any alternative times for a meet and confer. Resultingly, the court was again called upon to attempt to resolve another of the parties' ongoing discovery disputes.

While the expense incurred by Dorsey certainly exceeds this amount, the court finds that a sanction of \$750.00 is adequate to serve the dual purposes of promoting more efficiency in the new litigation concerning discovery disputes and punishing counsel for Harris for willfully obstructing Dorsey's attempts to meet and confer.

IT IS THEREFORE ORDERED that counsel for Harris is hereby sanctioned and shall pay Dorsey \$750.00 for expenses related to pursuing their Second Motion to Compel and hearing thereon.



State of Iowa Courts

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LACV021209
Type:

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CITY OF HARRIS V DORSEY & WHITNEY, LLP
OTHER ORDER

So Ordered

Charles Borth, District Court Judge
Third Judicial District of Iowa

Electronically signed on 2023-06-08 11:25:30