IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

GREGORY DENNIS,

Plaintiff,

v. **No. 09-2312**

CANADIAN NATIONAL RAILWAY COMPANY, and ILLINOIS CENTRAL RAILROAD COMPANY,

Defendants.

ORDER GRANTING IN PART AND DENYING IN PART DEFENDANT CANADIAN NATIONAL RAILWAY COMPANY'S MOTION FOR PROTECTIVE ORDER AND TO STAY DISCOVERY AS TO IT

I. Introduction

Before the Court is Defendant Canadian National Railway Company's ("CNR") Motion for Protective Order and to Stay Discovery as to It ("Motion for Protective Order") (Docket Entry "D.E." #68). CNR's Motion for Protective Order asserts that all discovery as to CNR is premature until the Court determines whether it has personal jurisdiction over CNR, a Canadian company. Thus, CNR requests that the Court quash the deposition subpoena as to William D. Hall, strike Plaintiff's Requests for Admissions to CNR in their entirety, and stay all discovery until CNR's Motion to Dismiss for Lack of Personal Jurisdiction is determined. Plaintiff's "Objection" to CNR's Motion for Protective Order argues that he has a right to obtain discovery that supports his claim that he was employed by CNR, to obtain discovery that CNR did not operate a railroad in Memphis, Tennessee during Plaintiff's employment, and to obtain discovery that "confirms that this Court has

personal jurisdiction" over CNR. The instant motion was referred to United States Magistrate Judge Charmiane G. Claxton (D.E. #69). For the reasons set forth herein, CNR's Motion for Protective Order is hereby GRANTED IN PART AND DENIED IN PART.

II. Analysis

The issue presented in the instant motion is whether CNR must participate in discovery before the Court determines whether personal jurisdiction exists as to CNR. Rule 26(b) of the Federal Rules of Civil Procedure provides, in pertinent part, the appropriate scope of discovery in civil matters:

> Unless otherwise limited by court order, the scope of discovery is as follows: Parties may obtain discovery regarding any nonprivileged matter that is relevant to any party's claim or defense . . . . Relevant information need not be admissible at the trial if the discovery appears reasonably calculated to lead to the discovery of admissible evidence. . . .

Fed. R. Civ. P. 26(b)(1).

In general, trial courts "have broad discretion and inherent power to stay discovery until preliminary questions that may dispose of the case are determined." Gettings v. Building Laborers Local 310 Fringe Benefits Fund, 349 F.3d 300, 304 (6th Cir. 2003) (quoting Hahn v. Star Bank, 190 F.3d 708, 719 (6th Cir. 1999)). "Limitations on pretrial discovery are appropriate where claims may be dismissed 'based on legal determinations that could not have been altered by any further discovery.'" Gettings, 349 F.3d at 304 (quoting Muzquiz v. W.A. Foot Memorial Hosp., Inc., 70 F.3d 422, 430 (6th Cir. 1995)). Such limitations are not appropriate, however, when issues could be "fleshed out in more detail if discovery had gone forward." Gettings, 349 F.3d at 304.

With respect to discovery of "jurisdictional facts," the Sixth Circuit has held that "discovery may be appropriate when a defendant moves to dismiss for lack of jurisdiction." Chrysler Corp. v.

Fedders Corp., 643 F.2d 1229, 1240 (6th Cir. 1981) (citation omitted). It is "well-established that the scope of discovery is within the sound discretion of the trial court." Id. In making such a determination, the trial court may consider whether there is a "reasonable basis to expect that further discovery would reveal contacts sufficient to support personal jurisdiction." Id. Although the Chrysler court held that the trial court's denial of discovery as to jurisdictional facts was not an abuse of discretion, the Court did state that permitting such discovery "may have been advisable." Id.

In the instant case, Plaintiff's first request as to CNR is to take the deposition of William D. Hall ("Hall"). However, the record does not reflect any information as to how Hall's deposition would reveal contacts sufficient to support personal jurisdiction. In fact, Plaintiff does not mention Hall whatsoever in his response to CNR's Motion for Protective Order. Thus, the Court finds that the deposition subpoena as to Hall should be quashed.

Next, Plaintiff has propounded his First Request for Admissions to CNR. CNR's Mot. for Prot. Order, Ex. B. These request inquire into the relationship between CNR and its co-defendant, Illinois Central Railroad Company ("IC") and Plaintiff's employment status with CNR. Plaintiff has submitted that he would like to pursue these requests to establish the required contacts with the forum state for the Court to exercise personal jurisdiction. Because the Court finds that these requests are reasonably calculated to lead to the discovery of evidence that would be relevant to the Court's determination of whether the exercise of personal jurisdiction is appropriate, the Court ORDERS Defendant CNR to respond to Plaintiff's First Request for Admissions.

Finally, CNR requests that the Court stay discovery pending the resolution of its Motion to Dismiss for lack of personal jurisdiction. However, since the filing of the instant motion, the

deadline for completion of all discovery has closed. Therefore, with the exception of the limited discovery authorized by the Court, no further discovery shall be permitted. Thus, CNR's request for a stay of discovery shall be DENIED as moot.

III. Conclusion

For the reasons set forth herein, Defendant Canadian National Railway Company's Motion for Protective Order and to Stay Discovery as to It is GRANTED IN PART AND DENIED IN PART. CNR's request to quash the deposition subpoena as to William D. Hall is GRANTED. CNR's request to strike Plaintiff's First Request for Admissions is DENIED. CNR's request to stay discovery is DENIED as moot.

IT IS SO ORDERED this 6th day of October, 2010.

s/ Charmiane G. Claxton
CHARMIANE G. CLAXTON
UNITED STATES MAGISTRATE JUDGE