IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

MAXWELL LITTLE, et al.,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	No. 18 cv 6954
	)	
JB PRITZKER FOR GOVERNOR, et al.,	)	Judge KENDALL
	)	
Defendants.	)	

PLAINTIFFS' COMBINED RESPONSE IN OPPOSITION
TO THE DEFENDANTS' MOTION FOR A PROTECTIVE ORDER

NOW COME the Plaintiffs, by and through their counsel, pursuant to Fed. R. Civ. P. 26(c), providing the following response in opposition to the Defendants' Motion for a Protective Order. In support thereof, Plaintiffs state as follows:

BRIEF FACTUAL BACKGROUND

Plaintiffs brought suit alleging they had been discriminated on the basis of their race by the JB Pritzker for Governor campaign and its agents, most relevantly to the present inquiry, the candidates themselves. In their second amended complaint, Plaintiffs alleged that even though the campaign knew it had a race problem, rather than fixing it they terminated the bulk of its field operations staff after the primary and then hired a new crop of organizers. Unsurprisingly, the same problems of racial discrimination continued to persist which prompted the instant suit.

Through discovery, Plaintiffs sought records of communications that supported their theory of the case using the least obtrusive means possible. Nevertheless, the

defendants refused to produce the candidates' calendars. Likewise, the defendants refused to produce communications in which the candidates were included relative to Plaintiffs' claims.

As a result, Plaintiffs had no choice but to notice the depositions of the candidates themselves. Accordingly, the defendants' motion for a protective order should be denied where the noticed depositions is the least obtrusive remaining to receive relevant information to support Plaintiffs' case.

ARGUMENT

The Court should deny the Defendants' motion for a protective order. Rule 26(c) permits a court, upon a showing of good cause, to "issue an order to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense." Fed. R. Civ. P. 26(c). As an initial matter, however, a court first must determine if the material sought is, "relevant to any party's claim or defense and proportional to the needs of the case, considering the importance of the issues at stake in the action, the amount in controversy, the parties' relative access to relevant information, the parties' resources, the importance of the discovery in resolving the issues, and whether the burden or expense of the proposed discovery outweighs its likely benefit." Fed. R. Civ. P. 26(b)(1). Courts have broad discretion in resolving discovery disputes and do so by adopting a liberal interpretation of the discovery rules. *Chicago Reg. Council of Carpenters Pension Fund v. Celtic Floor Covering, Inc.*, 316 F.Supp.3d 1044, 1046 (N.D. Ill. 2018); *Wiginton v. CB Richard Ellis, Inc.*, 229 F.R.D. 568, 577 (N.D. Ill. 2004) ("If relevance is in doubt, courts should err on the side of permissive discovery.").

Contrastly, broad allegations of harm, unsubstantiated by specific examples or articulated reasoning are insufficient to establish good cause for a protective order. *Hollinger Int'l, Inc. v. Hollinger, Inc.*, 2005 WL 3177880, at *3 (N.D. Ill. Jan. 9, 2005) ("Generalized claims of embarrassment do not establish good cause."). In deciding whether good cause exists, the Court must balance the competing interests of the parties involved. *See id.* Moreover, the party opposing discovery has the burden to prove that the discovery request should be disallowed. *Pacific Century Int'l, Ltd. v. Does 1-37,* Nos. 12 C 1057, 12 C 1080, 12 C 1083, 12 C 1085, 12 C 1086, 12 C 1088, 2012 WL 1072312, at *2 (N.D. Ill. March 30, 2012) ("The party opposing discovery has the burden of showing the discovery is overly broad, unduly burdensome, or not relevant.") (*citing Williams v. Blagojevich*, No. 05 C 4673, 2008 WL 68680, at *3 (N.D. Ill. Jan. 2, 2008). Here, the deponent's self-serving affidavits do not outweigh the objective evidence that they had personal knowledge of relevant information.

Although the deponents are undoubtedly high-powered officials, the *Patterson* framework weighs against granting the protective order. *Patterson v. Avery Dennison Corp.*, 281 F.3d 676 (7th Cir. 2002) (holding that courts may consider an employee's "apex" position and whether less burdensome alternatives are available when weighing the value of the material sought against the burden of providing it). Here, where Plaintiff sought relevant discovery through less intrusive means, the depositions of Governor Pritzker and Lieutenant Governor Stratton are warranted where they have independent, non-duplicative information about specific claims of discrimination and

what—if anything—they personally did in response to those claims. Therefore, the defendants' motion for a protective order should be denied.

I. GOVERNOR PRITZKER'S TESTIMONY IS BOTH PROBATIVE AND NON-DUPLICATIVE.

Plaintiffs have been able to identify at least five former campaign staffers, only one of whom is a plaintiff, who spoke with Governor Pritzker personally wherein complaints of racial discrimination were made. *See, e.g.,* Exhibit 1, News Article. In addition to that, Plaintiff Chaney testified under oath that he attempted to speak with then-Candidate Pritzker about his complaints however Governor Pritzker refused to listen and immediately walked off. Moreover, the documentary record shows that at least one volunteer approached Governor Pritzker about the discrimination that was happening on the campaign.

While it is absolutely possible that Governor Pritzker does not remember any of these conversations and/or did nothing to address the concerns raised during them, it is not possible that he was ignorant of the racial discrimination that was going on during his campaign. Multiple people told him. The idea that no one spoke Governor Pritzker about their complaints of racial discrimination is provably false. Furthermore, if the putative head of the corporation knew about discrimination and turned a blind eye to it that is relevant. *See Harris v. Illinois*, No. 09 C 3071, 2014 U.S. Dist. LEXIS 82563, 2014 WL 2766737, at *16 (N.D. Ill. June 18, 2014). This is especially true given the deponent's many public avowals to the contrary. Plaintiffs ought to have the opportunity to correct the record.

Undoubtedly, it will be somewhat disruptive for Governor Pritzker to sit for a deposition.[1] However, Plaintiffs have no interest in wasting his time or their own. He is a crucial witness because of his importance. Governor Pritzker, more than anyone, had the power and authority to address the complaints of racial discrimination that were being made. While Plaintiffs can and intend to depose other persons who were made aware of plaintiffs' complaints, there is a quantitative difference between complaining to one's immediate supervisor and complaining to the Chief Executive. Accordingly, the Defendants' motion for a protective order should be denied.

II. WHETHER LT. GOVERNOR STRATTON ALSO PURPOSELY IGNORED COMPLAINTS OF RACIAL DISCRIMINATION IS RELEVANT.

The tipping point for many of the current plaintiffs came during a campaign-wide, two-day training on Sept. 11-12, 2018. Prior to that, attempts had been made to speak with then-candidate Stratton about discrimination taking place on the campaign as she had purportedly made herself available to field organizers. However, at this time, we cannot prove that Lt. Governor Stratton ever actually received the complaints of which Plaintiffs are aware. Regardless, if she did not receive those complaints, it bears reasonably inquiry as to why she held herself out as someone who could and would address these complaints but did not. More importantly, though, we know that Lt. Governor Stratton was present at 11 September 2018 training where Plaintiffs (and other Black field organizers) took the opportunity to air their complaints of

[1] Plaintiffs are willing to travel to Springfield, Illinois in order to accommodate the witnesses.

discriminatory treatment to all the senior staff as their repeated complaints to their immediate supervisors had been ignored.

Admittedly, sometime during that session Lt. Governor Stratton was escorted out of the room. However, whether she intentionally ignored complaints of racial discrimination is relevant, especially given Plaintiffs' theory of liability. Further, it should be noted that the very next day, the majority-minority PODs were herded together like cattle and told, "not to say anything stupid."

III. THE DEPONENTS' SELF-SERVING AFFIDAVITS ARE NOT DISPOSITIVE OF THE ISSUES BEFORE THE COURT.

The Court should not afford the deponents' affidavits great deference. As argued more fully above, there are specific instances where both Governor Pritzker and Lt. Governor Stratton were made aware of complaints of racial discrimination. *See Robinson v. Village of Oak Park*, 2013 IL App (1st) 121220, ¶21 (2013) (noting that a, "self-serving affidavit with an absence of evidence supporting these self-serving comments is…insufficient"); . Furthermore, the priorities that the candidates placed on their

campaign is also relevant. Both Governor Pritzker and Lt. Governor Stratton, essentially, state in their affidavits that they assigned senior level employees work, determined their job duties, and evaluated their performance. Dkt. 67, ¶11; Dkt. 68, ¶11. Accordingly, they could have hired an HR person or ordered one of their senior staffers to address the complaints that were made to them.

CONCLUSION

Both the Governor Pritzker and Lieutenant Governor Stratton ought to have information related to both plaintiffs' and other staffers' complaints of racial discrimination. What they did with that information—especially if what they did is nothing—is both relevant, probative, and admissible in this case. Therefore, the Court should deny the Defendants' motion for a protective order.

WHEREFORE the Plaintiffs respectfully request that this Honorable Court deny the Defendants' Motion for a Protective Order, and provide any such other further relief as it deems equitable and just.

Dated: 3 February 2020

Respectfully Submitted,

By: /s/ Shay Allen
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