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May 9, 2019

Mr. Casey Erick
Kessler Collins
2100 Ross Avenue Suite 750
Dallas, TX 75201

Via e-service and email

Re: Cause No. 141-307474-19; Victor Mignogna, Plaintiff v. Funimation Productions, LLC, Jamie Marchi, Monica Rial, and Ronald Toye, Defendants, 141st District Court, Tarrant County, Texas

Casey:

I received your May 9, 2019 letter. You took three pages to obscure your core argument – that you are somehow entitled to depose our client first. Surely, you are aware that no such right exists under Texas law.

Allow me to point out several other misrepresentations in your letter:

1. You claim that you conferred with me. That is flatly untrue. You “unilaterally” noticed Mr. Mignogna without conferring with me. I then contacted you about the dates. Stating “I did confer with you about your client’s availability” is disingenuous. At best.
2. As I’ve noted in previous emails to you, the Texas Rules of Civil Procedure do not give you the right to “go first” with depositions. You can state “you heard me say we will depose Mr. Mignogna first” as many times as you want, but that doesn’t change the Rules.
3. You also have no right to define the date range in which we may depose your clients. It appears that you may have unwisely advised your clients that somehow, they won’t be deposed or required to testify.

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4. You complain at great length about the expense your clients incurred because you were “forced” to file motions to quash and objections to a subpoena that you were already notified to disregard. There was no reason to file your motions Tuesday. All you had to do was pick up the phone and call me. Also the “three day window” ran out on Wednesday, so there was no urgent requirement to file motion and respond to already-withdrawn subpoenas.
5. You complain that I refused to “withdraw” our deposition notices. That is a disingenuous characterization. I asked you (again) for alternate dates to depose your clients. After six days, you continue to refuse to provide those dates. We consider this discovery abuse and will file the appropriate motions and schedule a hearing on our motions and on your motions.
6. You refused to agree to a confidentiality agreement in this case. Thank you for the veiled threat to disclose Mr. Mignogna’s deposition information:

“Frankly, I assumed Mr. Mignogna gave considerable thought to any personal privacy concerns before he filed his lawsuit. Regardless, my clients have considered his request and it is declined.”

This statement (and your clients’ 400+ defamatory tweets) will figure prominently in our motions. We will of course, issue trial subpoenas and let your clients explain to the court why they should be allowed to continue to defame Mr. Mignogna.

7. Your lurid characterization of our requests as “last-minute antics and erratic proposals” is ridiculous. You have refused to provide availability dates for your clients for a week now; at some point we’re entitled to demand that you comply with the discovery rules.
8. You’ve also demanded that we provide dates for your own clients’ availability (and after a date that you arbitrarily specified). They aren’t our clients and as noted, you don’t get to decree when we can take depositions.

Casey, you really should stop these pointless - and expensive - games and simply confer with me. This is a waste of the court’s time and your clients’ money.

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With Warmest Regards,

Ty Beard

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