

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

CARA LESLIE ALEXANDER,)	
et al.,)	
)	
Plaintiffs,)	
)	
v.)	Civil No. 96-2123
)	97-1288
)	(RCL)
FEDERAL BUREAU OF)	
INVESTIGATION, et al.,)	
)	
Defendants.)	
_____)	

MEMORANDUM AND ORDER

This matter comes before the Court on Plaintiffs' Motion [594] to Stay Upcoming Deposition of Betsy Pond Until Requested Status Conference; Plaintiffs' Motion [643] for Leave to File Supplement to Motion Re: Betsy Pond Deposition; and Plaintiffs' Motion [696] for Leave to Supplement Pending Motion Regarding Deposition of Betsy Pond and Supplement Thereto. Upon consideration of plaintiffs' motions; the oppositions of government defendants, non-party Pond, and defendant Hillary Rodham Clinton; and plaintiffs' replies, the court will GRANT IN PART and DENY IN PART Plaintiffs' Motion [594] to Stay Upcoming Deposition of Betsy Pond Until Requested Status Conference; GRANT Plaintiffs' Motion [643] for Leave to File Supplement to Motion Re: Betsy Pond Deposition; and GRANT Plaintiffs' Motion [696] for Leave to Supplement Pending Motion Regarding Deposition of Betsy Pond and Supplement Thereto.

During her deposition, Linda Tripp identified Betsy Pond as a potential witness in this case. Tripp testified that she observed Pond, Bernard Nussbaum's former Executive Assistant (as was Tripp), inputting information while at work from certain files onto a computer database. Based on previous descriptions given by Pond to Tripp of FBI files, however, Tripp surmised that the files from which Pond was inputting data looked like FBI files. However, Tripp knew nothing more on this topic. She could not further identify the files or the computer database onto which they were allegedly being entered. For these reasons, in an order pertaining to a hearing held in conjunction with certain matters arising from Tripp's deposition, the court discouraged plaintiffs from asking further questions of Tripp on this topic and sua sponte granted plaintiffs leave to depose Pond.¹ See Order of December 17, 1998.

Subsequent to the court granting plaintiffs leave to depose Pond, defendant EOP noticed Pond's deposition and effectively served a subpoena upon her. Plaintiffs responded by cross-noticing Pond's deposition, for a date two days prior to the date given in defendant EOP's notice and subpoena. Apparently, plaintiffs did not serve a subpoena upon Pond, and Pond claims that she never received plaintiffs' notice, either. These events, along with the

¹Although the court did not explicitly grant leave only to plaintiffs to depose Pond, it certainly did so implicitly. As defendant EOP admits, it does not need leave to depose Pond, as it has not exhausted the number of depositions afforded it under the federal rules. Thus, the court granting leave for a deposition clearly applied to only plaintiffs.

attendant consequences of defendant EOP beating plaintiffs to the deposition notice of Pond, have led to the filing of plaintiffs' current motions.

Plaintiffs' Motion to Stay Upcoming Deposition of Betsy Pond Until Requested Status Conference seeks four types of relief: (1) to be allowed to be the first examiner of Pond during her deposition; (2) to have judicial supervision over Pond's deposition; (3) to be allowed to question Pond on a matter the court has already held to be "totally outside the scope of discovery"; and (4) to have a court-ordered status conference on these issues. The court will grant plaintiffs' first request and deny all of the others.

Plaintiffs will be entitled to begin the questioning of Pond. The court indicated its intention for plaintiffs to depose Pond by granting them such leave. The court interprets defendant EOP's preemptive notice and subpoena of Pond as mere gamesmanship, which will not be condoned when displayed by either party.

The court rejects all of plaintiffs' other requests. There is no apparent need for judicial supervision of the Pond deposition. Any concerns plaintiffs may have with regard to Pond's character for truthfulness may be remedied by other penalties for testifying falsely under oath in a judicial proceeding, should such remedies become necessary. The court will deny plaintiffs' request for the court to reconsider its holding that the substance of the private matter discussed between Tripp and William Kennedy is outside the

scope of discoverable evidence in this case. Plaintiffs offer no legitimate justification for revisiting that holding, and no such basis can exist. Finally, the court will deny plaintiffs' request for a status conference on these issues. This motion has been adequately addressed by written memoranda, and the court's opinion today renders any further need for a status conference moot.

The court will also grant both of plaintiffs' motions for leave to file supplements to their motion regarding the Betsy Pond Deposition. Both of these supplements contain information that was made available in public documents after the filing of plaintiffs' motion.

Plaintiffs filed their first motion to supplement based in part upon a newspaper article that was published after the filing of their initial motion. Based upon information contained in this newspaper article, plaintiffs point out that Pond is employed by the Department of Justice and biased against plaintiffs. Thus, according to plaintiffs, they should be allowed to ask questions of Pond before defendant EOP's counsel (from the Department of Justice). The court finds this good cause for leave to supplement, and therefore grants plaintiffs' motion.

Plaintiffs' filed their second motion to supplement to provide the court with a passage from a book released subsequent to the filing of plaintiffs' motion. This passage states that Pond is "a Clinton loyalist." In plaintiffs' view, this passage supports their argument that they should be allowed to depose Pond before

defendant EOP. Again, because this information was made available in a document subsequent to the filing of plaintiffs' motion and properly supplements the theory already put forward by plaintiffs, the court finds good cause for granting plaintiffs leave to file their second supplement.

Therefore, for the reasons stated above, the court HEREBY ORDERS that:

1. Plaintiffs' Motion [594] to Stay Upcoming Deposition of Betsy Pond Until Requested Status Conference is GRANTED IN PART and DENIED IN PART. In this regard, it is FURTHER ORDERED that:

(a) Plaintiffs shall be allowed to begin the questioning of Betsy Pond.

(b) Plaintiffs' motion is denied in all other respects.

2. Plaintiffs' Motion [643] for Leave to File Supplement to Motion Re: Betsy Pond Deposition; and Supplement is GRANTED.

3. Plaintiffs' Motion [696] for Leave to Supplement Pending Motion Regarding Deposition of Betsy Pond and Supplement Thereto is GRANTED.

SO ORDERED.

Date:

Royce C. Lamberth
United States District Court