

IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT, IN AND FOR
DADE COUNTY, FLORIDA

GENERAL JURISDICTION DIVISION

CASE NO. 08-47461 CA 21

ALAN K. MARCUS, P.A.,

Plaintiff,

V.

ALAN J. NATHAN,

Defendant.

_____ /

MOTION TO COMPEL DEPOSITION

COMES NOW the Defendant, ALAN J. NATHAN, and files this Motion to Compel Deposition and in support of this Motion states the following:

1. This lawsuit was brought against the Defendant for alleged non-payment of attorney's fees and costs claimed to be due and owing by Plaintiff.
2. In order to fairly defend against Plaintiff's claims it is necessary for Defendant to take the deposition of Plaintiff's representative "with the most knowledge regarding time records, billing records, billing practices, accounting records, accounting practices, trust account records and trust account record keeping practices of [Plaintiff's] firm".
3. On September 29, 2008 Plaintiff sent a notice for taking the aforesaid Witness' deposition *Duces Tecum* on October 20, 2008. Plaintiff filed a Motion for Protective Order as to this deposition and objected on the

basis of scheduling issues and other grounds.

4. In order to avoid the necessity of a court hearing the undersigned contacted Plaintiff and requested dates of availability for the taking of this deposition some time in November. The undersigned was informed that the Plaintiff's schedule was already booked for November but that perhaps some time in December may come available.
5. The undersigned verily believes that Plaintiff is purposely delaying the conduct of necessary discovery and anticipates that dilatory tactics will be employed throughout this litigation.
6. Based on the foregoing justice requires that Plaintiff be compelled to produce the designated corporate representative for the taking of his/her deposition at a time and place reasonably convenient and taking into consideration the rights and interests of both parties.

WHEREFORE, based on the foregoing, Defendant respectfully requests this Honorable Court to enter an Order granting the above requested relief and for such further Relief as this Court finds appropriate.

Attorney for Defendant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been

furnished via Facsimile to 305-507-1204 and by U.S. mail this ____ day of November, 2008 to: Alan K. Marcus, P.A., 2600 Douglas Rd., Suite 1111, Coral Gables, FL 33134.

By: _____