

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

**JOHN DOE, a Minor,
THROUGH NEXT FRIEND,
BOB DOE,**

Plaintiff,

v.

THE DISTRICT OF COLUMBIA *et al.*,

Defendants.

Civil Action No. 03-1789 (GK/JMF)

MEMORANDUM ORDER

This order is issued in response to opposing emergency motions for protective orders. For the reasons stated herein, The District of Columbia's Emergency Motion for Protective Order [#175] is hereby **DENIED** and The Plaintiff's Emergency Motion for Protective Order Regarding the Deposition of Jane Doe on May 25, 2005 [#176] is hereby **GRANTED IN PART and DENIED IN PART**.

I. THE INSTANT MOTIONS

Pursuant to Federal Rule of Civil Procedure ("Rule") 26(c) and LCvR 30.1, the District of Columbia has moved this court to issue a protective order to allow it to proceed with the May 25, 2005 deposition of Jane Doe, a witness in the above-captioned litigation, despite her failure to appear at her properly scheduled and noticed May 23, 2005 deposition. At the same time, pursuant to Rule 30 and LCvR 30.1, plaintiff has moved this court to issue a protective order barring Jane Doe's May 25, 2005 deposition. In addition, plaintiff has requested, pursuant to Rule 32(a)(3), that Jane Doe's deposition not be used in any way against plaintiff at trial.

Finally, plaintiff has requested costs and attorneys' fees from the District of Columbia, pursuant to Rules 26 and 37.

A. The District of Columbia's Motion

This court is certainly troubled by the allegations that there have been threats and intimidation targeting Jane Doe, which may have contributed to her failure to appear at her deposition. But, because this court may compel Jane Doe to testify at an appointed time, this court elects not to shorten the time required for notice under LCvR 30.1. Recognizing the gravity of the aforementioned allegations, however, this court requests that the parties alert the court of any further threats or intimidation and offers its courthouse and marshall protection for Jane Doe's deposition, if necessary. Accordingly, the District of Columbia's motion for protective order is denied.

B. The Plaintiff's Motion

Setting aside the question of timeliness of notice under Rule 30 and LCvR 30.1, this court finds that Jane Doe's May 25, 2005 deposition would be unduly burdensome to the parties given that four other depositions are scheduled for the same day. Accordingly, this court grants in part Plaintiff's motion for protective order and orders the parties to meet and reschedule a new date for Jane Doe's deposition. Because the May 23, 2005 deposition was properly noticed and because the parties have been ordered to reschedule Jane Doe's deposition, this court denies plaintiff's request that her deposition be inadmissible at trial. Finally, this court denies plaintiff's request for attorneys' fees and costs associated with its motion because, as noted in the District of Columbia's opposition to plaintiff's motion, there was confusion as to plaintiff's position regarding whether he would object to the taking of Jane Doe's deposition at a later date.

SO ORDERED.

Dated:

JOHN M. FACCIOLA
UNITED STATES MAGISTRATE JUDGE