

IN THE MICHIGAN COURT OF APPEALS

ORDER

Re: **Laurence G Wolf v City of Detroit**
Docket No. **279853**

Christopher M. Murray, Chief Judge Pro Tem, acting in his authority as case manager of this original action under the February 5, 2008 order of Chief Judge Henry William Saad, orders:

The motion of defendant for a protective order and to quash the August 4, 2008 deposition subpoena brought pursuant to MCR 2.302(C)(1) is DENIED. MCR 2.302(E)(1)(b) obligates defendant to seasonally supplement its prior responses to interrogatories and to the requests of plaintiff for production of documents if defendant acquires new information that (1) renders the prior discovery responses incorrect when made or (2) renders an otherwise correct response "no longer true and the circumstances are such that a failure to amend the response is in substance a knowing concealment." The testimony within the affidavit of defendant's expert, Mauricio Kohn, changes the substance of several of defendant's responses to plaintiff's discovery requests, such that defendant became obligated to seasonally supplement its prior responses. Defendant honored its obligation to seasonally supplement, but the fact that the supplementation occurred following the close of discovery does not immunize defendant or its witness Kohn from submission to a discovery deposition. See MCR 2.302(B)(4)(a)(ii); *Linsell v Applied Handling, Inc*, 266 Mich App 1, 21-22; 697 NW2d 913 (2005); *Backiel v Sinai Hosp of Detroit*, 163 Mich App 774, 778-779; 415 NW2d 15 (1987).

Defendant shall make witness Kohn available for deposition within 14 days of the Clerk's certification of this order. Plaintiff shall then have 21 days from the Clerk's certification of this order to file his reply brief.



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

AUG 12 2008
Date

Sandra Schultz Mengel
Chief Clerk