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January 10, 2025

Hon. Christopher M. Lopez
United States Bankruptcy Judge
U.S. Bankruptcy Court for the
Southern District of Texas
515 Rusk, Courtroom 401
Houston, Texas 77002

Re: *In re Red River Talc LLC*, Case No. 24-90505

Dear Judge Lopez,

I respectfully write regarding the Coalition of Counsel for Justice for Talc Claimants' Motion for Sanctions Against Benedict Morelli ("Motion for Sanctions"). [Dkt. 898]. While I intend to file a formal opposition to the Coalition's Motion, given the grave accusations made therein and the urgency of ongoing proceedings, I felt it necessary to expeditiously provide the Court with information regarding the Coalition's bad faith filing.

First, I have been unable to file any response to the Coalition's Motion for Sanctions nor a motion to quash my subpoena which has been ready to file since January 6, 2025, as I am not yet admitted before this Court. I filed a Motion for Admission *Pro Hac Vice* on January 8, 2025 [Dkt. 887] but as such motion had not yet been granted I have been unable to file anything in this matter until now. The Coalition was aware of my inability to file anything as of January 3, when I informed Richard Golomb, one of the members of the Coalition, of such issue. Since January 4, 2025, the Coalition has been aware that I intended to file a motion to quash my deposition.¹ I also indicated my intent to file a motion to quash in my *Pro Hac Vice* papers [Dkt. 887] and told Richard Golomb the same via text message on January 8, 2025

¹ I informed counsel for the Coalition of such intent via email on January 4, 2025.

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Second, my representation to the Court’s case manager that my appearance at the December 27 Hearing was no longer required was made in good faith, based on my understanding of a public filing which, if counsel for the Coalition had read, indicated my agreement to accept service of their subpoena and sit for a two-hour deposition, to be conducted virtually, in January. [Dkt. 734 at ¶ 12]. Such filing was made on December 10, 2024. While the Coalition feigns ignorance,² it is indisputable that I agreed to accept service as of December 10 and it is entirely disingenuous to suggest otherwise.

Third, any issues regarding the scheduling of my deposition are of the Coalition’s own creation. It is not for me to say why the Coalition chose not to issue their subpoena to me until January 3, 2025.³ [Dkt. 877-1]. What is important—and what I myself relied upon—is the fact that the subject subpoena and attached notice of deposition indicated that my deposition would be set for January 9 “**or at such other time and place as may be agreed upon**” and that the deposition may be “**accessed via remote video conference.**” [Dkt. 877]. No genuine attempt to confer upon a time and place for my deposition has been made. And Coalition’s counsel’s demand via e-mail on December 31, 2024, that I attend a deposition in person “on Monday at 10:00am,” is without any force or meaning in light of the subsequent subpoena setting my deposition for a *different* day.⁴

Moreover, serving a subpoena with six day’s notice does not meet the “reasonable time to comply” standard under the Federal Rules. *Parra v. State Farm Lloyds*, No. 7:14-CV-691, 2015 U.S. Dist. LEXIS 185386, at *3 (S.D. Tex. Jan. 13, 2015) (interpreting a reasonable time to comply as 30-days and quashing a subpoena for deposition that only provide 22 days’ notice). The reasonable time to comply requirement, in part, would allow time for the filing of a response such as the Motion to Quash I filed concurrently herewith.

Fourth, coalition has continued to defame me knowing that I cannot defend myself due to my inability to file anything with the court until my *Pro Hac Vice* is granted by the court. Any accusation that I have disingenuously “pretended to engage in scheduling [my] deposition” is patently false. [Dkt. 898 at ¶ 2]. Setting aside the e-mail sent to me on December 31 and January 3 subpoena (which contradict one another as to the date the Coalition demanded my deposition), there has been no attempt by the Coalition

² Dec. 27, 2024 Hrg. Tr. at 33:5-16.

³ To my understanding the subpoena was issued after the close of fact discovery.

⁴ As indicated in my Motion to Quash, I was unavailable on January 9, 2024 to sit for a deposition. The Coalition was aware of my unavailability, and I communicated the same to Richard Golomb via text message on January 8, 2025.



to meet and confer with me to schedule my deposition—which I had already agreed to sit for.⁵ Again, in good faith, I have agreed to accept service of the Coalition’s January 3, 2025 subpoena, and, should the Court deny my Motion to Quash filed concurrently herewith, I reiterate my agreement to sit for a two hour deposition to be held virtually at a time to be agreed upon.

Finally, the Coalition’s request that the Court prevent me from changing the votes cast on behalf of my clients is unwarranted. I am attempting to recast my firm’s master ballot in good faith and with the belief that the Plan is in their best interest. The Coalition’s attempts to intimidate me and prevent me from doing so by subjecting me to harassing discovery and motion practice are unwarranted and should not prejudice my clients’ interests.

I respectfully ask the Court to grant the concurrently filed Motion to Quash and deny the Motion for Sanctions following further briefing.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'B. Morelli', with a stylized flourish at the end.

Benedict P. Morelli

⁵ Any attempts to schedule my deposition through counsel for the AHC is improper. My firm is not a member of the AHC, a fact of which the Coalition is well aware. On the other hand, if counsel for the Coalition does believe that I am represented by counsel then they are knowingly communicating with a person represented by counsel in contravention of the Rules of Professional Conduct.

