

Zhizheng Wang v. Hull (Order Granting Motion to Compel and Staying Case)

Zhizheng Wang v. Hull, No. C18-1220RSL, 2020 WL 4734930 (W.D. Wash. June 22, 2020)

This matter comes before the Court on Defendant's Motion to Compel the Deposition of Plaintiff Zhizheng Wang. Dkt. #87.

While attempting to schedule plaintiff's video deposition, defense counsel learned that China does not permit attorneys to take depositions in China for use in foreign courts and that obtaining evidence in China for use in foreign courts generally must proceed through requests to China's Central Authority under the Hague Evidence Convention. See U.S. Dep't of State, Bureau of Consular Affairs, China Judicial Assistance Information (2019).

Article 277 of the Chinese Civil Procedure Law provides that, except where coordinated pursuant to international treaties to which China is a party, no foreign authority or individual may serve process, conduct investigations, or obtain evidence within the borders of the People's Republic of China without permission from the Central Authority.

Defendant expressed concern that conducting the deposition while plaintiff was physically located in Beijing could expose defendant, counsel, and support staff to sanctions under Chinese law. Plaintiff refused to cooperate in an alternative arrangement, arguing that defendant was bound by the prior agreement, that defendant misinterpreted Chinese law, and that requiring travel would pose COVID-19 risks.

The Court finds defendant's interpretation of Chinese law reasonable given the text of Article 277, the State Department advisory, and relevant U.S. case law. See *Ji v. Jling, Inc.*, 2019 WL 1441130, at *2, *4, *6 (E.D.N.Y. Mar. 31, 2019). The Court declines to require defendant to risk potential criminal sanctions.

Plaintiff's remaining arguments are rejected. Defendant is not bound by an agreement unknowingly exposing participants to legal jeopardy. Nor does refusal to violate foreign law constitute harassment. Plaintiff possesses relevant information concerning standing and communications with defendant, rendering his deposition appropriate.

With respect to the COVID-19 pandemic, the Court will not require immediate international travel. However, plaintiff may not selectively avoid deposition while submitting declarations when convenient. The Court previously denied plaintiff's motion for summary judgment without prejudice as to standing. Dkt. #108 at 4.

Defendant's motion to compel plaintiff to appear for deposition in a lawful location, including Seattle, Hong Kong, Macau, Seoul, or Taipei, using commercially available video conferencing technology, is GRANTED. The matter is STAYED pending completion of the deposition.

If the deposition occurs by July 1, 2020, the case management schedule will be reinstated.
The parties shall file a joint status report following completion of the deposition.