

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

HAROLD WEISBERG,

Plaintiff,

v.

GENERAL SERVICES ADMINISTRATION,

Defendant.

Civil Action No. 75-1448

DEFENDANT'S OPPOSITION TO PLAINTIFF'S  
MOTION FOR AN ORDER ALLOWING PLAINTIFF  
TO TAPE-RECORD DEPOSITIONS

Relying on the provisions of the Freedom of Information Act, 5 U.S.C. §552, plaintiff seeks by this action to compel disclosure of the June 23, 1964, Executive Session transcript of the Warren Commission and pages 63-73 of the January 21, 1964 Executive Session Transcript. Thus far, plaintiff has propounded two sets of interrogatories totalling 63 questions some of which have numerous subparts, as well as a request for production of documents under Rule 34, Federal Rules of Civil Procedure. Now, plaintiff has moved for an order permitting him to tape-record depositions in this action and in his memorandum of points and authorities has named nine individuals whom he desires to depose. Among these are Dr. Rhoads, Archivist of the United States, and other officials of the General Services Administration as well as individuals from the Central Intelligence Agency and the Department of Justice.

At the present time, counsel for defendant is preparing a motion for summary judgment which will be accompanied by detailed affidavits from Dr. Rhoads and Mr. Charles A. Briggs, Chief of the Services Staff for the Directorate of Operations of the Central In-

telligence Agency. In defendant's view, this motion will be dispositive of the merits of this action. Defendant is also now engaged in preparing a response to plaintiff's second set of interrogatories, plaintiff's request for production of documents under Rule 34, and plaintiff's motion to compel answers to interrogatories. Defendant respectfully requests, therefore, in accordance with established precedents which permit a Court to stay discovery pending resolution of a dispositive motion, that plaintiff's motion for an order allowing plaintiff to tape-record depositions be denied pending resolution of defendant's forthcoming motion for summary judgment. See Brandon v. Sampson, Civil Action No. 73-2232 (D.D.C.); Summer v. Richardson, Civil Action No. 433-72 (D.D.C.); National Petroleum Refiners' Assn. v. F.T.C., Civil Action No. 1180-71 (D.D.C.). Defendant is aware of no reason why the written interrogatories or document requests already utilized by plaintiff are not adequate for his purpose, and submits that if plaintiff is to have discovery at all in this case, he should be required to use these devices rather than be granted the facility of deposing a long list of government officials. United States v. Northside Realty Associates, 324 F.Supp. 287, 293 (N.D. Ga 1971); Capitol Vending Co., Inc. v. Baker, 3 F.R.Serv. 2d 26a.34 (case 2) (D.D.C. 1964). Moreover, since a protective order may be granted as to the timing of discovery, Rule 26(b)(2), Federal Rules of Civil Procedure, it is appropriate to first resolve defendant's forthcoming dispositive motion, thus obviating the need for time-consuming and burdensome depositions. Associated Metals and Minerals Corp. v. S.S. Ceert Howaldt, 348 F.2d 457 (5th Cir. 1965); Chemical and Industrial Corp. v. Duffel, 301 F.2d 126 (6th Cir. 1962); Dolgow v. Anderson, 53 F.R.D. 661, 664 (E.D.N.Y. 1971).

Wherefore, for the foregoing reasons, defendant respectfully requests that plaintiff's motion for an order allowing plaintiff to tape-record depositions be denied.

---

EARL J. SILBERT  
United States Attorney

---

ROBERT W. FORD  
Assistant United States Attorney

---

MICHAEL J. RYAN  
Assistant United States Attorney

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that service of the foregoing Defendant's Opposition to Plaintiff's Motion For An Order Allowing Plaintiff To Tape-Record Depositions and proposed Order has been made upon plaintiff by mailing copies thereof to James Hiram Lesar, Esq., 1231 4th Street, S.W., Washington, D.C. 20024, on this 24th day of March, 1976.

---

MICHAEL J. RYAN  
Assistant United States Attorney  
U.S. Courthouse  
Room 3421  
Washington, D.C. 20001  
(202) 425-7375

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

HAROLD WEISBERG,

Plaintiff,

v.

GENERAL SERVICES ADMINISTRATION,

Defendant.

Civil Action No. 75-1448

ORDER

Upon consideration of plaintiff's motion for an order allowing plaintiff to tape-record depositions, defendant's opposition thereto, and the entire record herein, it is by the Court this \_\_\_\_\_ day of \_\_\_\_\_, 1976,

ORDERED that plaintiff's motion be and the same hereby is denied.

\_\_\_\_\_  
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

HAROLD WEISBERG,

Plaintiff

-v-

GENERAL SERVICES ADMINISTRATION,

Defendant

Civil Action No. 1448-75

FILED

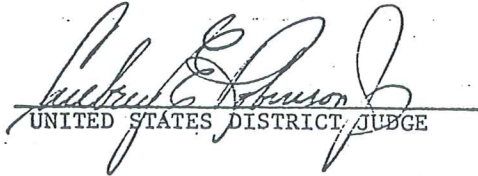
MAR 3 5 1976

O R D E R

JAMES E. DAVEY, CLERK

Upon consideration of defendant's motion for an extension of time within which to respond to plaintiff's motion to compel answers to interrogatories, and the entire record herein, it is by the Court this 23rd day of March, 1976

ORDERED that defendant's motion is hereby granted and its time to respond to plaintiff's motion to compel answers to interrogatories is hereby extended to and including March 29, 1976.

  
UNITED STATES DISTRICT JUDGE