

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

IN RE: HAIR RELAXER MARKETING) MDL No. 3060
SALES PRACTICES AND PRODUCTS)
LIABILITY LITIGATION) No. 23-cv-00818
)
) District Judge Mary M. Rowland
)
) Magistrate Judge Beth W. Jantz

ORDER RE: AVLON CONTESTED DEPONENTS

In their 10/02/2025 JSR, Dkt. No. 1439, and from the 10/9/25 status hearing on discovery, Defendant Avlon and Plaintiffs disputed whether Plaintiffs could depose the following witnesses: (1) Joseph Mensah, (2) Dante Albano, and (3) Tom Bingham. The Court construes this portion of the JSR as Plaintiffs' Motion to Compel the deposition of these three deponents. The Court DENIES the Motion with respect to Joseph Mensah. The Court GRANTS the Motion with respect to Dante Albano and Tom Bingham, who must be deposed by December 19, 2025. See Dkt. No. 1436 at 21:11–13.

I. DISCUSSION

Avlon opposes the depositions of (1) Joseph Mensah, (2) Dante Albano, and (3) Tom Bingham. Dkt. No. 1439 at 6. First, Avlon opposes all three depositions on the grounds that Plaintiffs are seeking these depositions after the August 1, 2025, deadline to issue all deposition notices or subpoenas, dkt. No. 1261 at 2. Avlon also makes specific objections as to each deponent. Plaintiffs and Avlon further briefed

the issue via email, with deposition citations. Dkt. No. 1449. The Court considers each witness in turn.

A. Joseph Mensah

Joseph Mensah is a former quality control manager at Avlon. Mensah began working at Avlon in February 2023, after this litigation began.¹ Dkt. No. 1439 at 6. Plaintiffs claim that multiple individuals, however, have identified him as handling FDA and other product registration in the United States, so they believe he likely has information relevant to this litigation. Dkt. No. 1439 at 6. Per Plaintiffs, Mensah's name came up very often in recent depositions. Defendants argue that he would not produce relevant testimony because he worked outside of the relevant time period. Dkt. No. 1439 at 6.

Regardless of whether Mensah could provide relevant testimony, Plaintiffs have not been sufficiently diligent in requesting his deposition earlier. Plaintiffs argue that they did not know that Mensah needed to be deposed because they did not receive much information on Mensah from Avlon. However, (1) he was named in Avalon's disclosures, Dkt. No. 1448 at 63:10, and (2) Plaintiffs did know enough to request his custodial file, and to inquire about the lack of documents in that custodial file. Dkt. No. 1448 at 63:10–19. Additionally, it appears that Plaintiffs will

¹ Plaintiffs and multiple defendants including Avlon previously agreed that the default ending collection date for documents was the date the defendant was first sued in this litigation. Dkt. 644. Although not controlling here, this date range is nevertheless instructive to this Court.

be deposing several others with similar roles and/or knowledge. Dkt. No. 1448 at 52:01–09.

The Court therefore DENIES Plaintiff's Construed Motion to Compel Joseph Mensah's deposition.

B. Dante Albano

Dante Albano was a quality control manager at Avlon. Dkt. No. 1448 at 52:03–05. Plaintiffs argue that Albano is likely to have relevant testimony because Albano held the same role as Mensah, but within the document collection time period. One witness also testified that he was “very intimate with the—with the regulations and [a] subject matter expert, so someone, again, you can easily defer to.” Syed (Jafar) Dep. Tr. at 129:16–130:8.

Plaintiffs have also been diligent about timely seeking Albano's deposition. Plaintiffs did not have an obvious reason to think he would be an important witness until they learned of him through other depositions, as he was not named by Avlon in its disclosures, and his name appeared in only a low percentage of documents among Avlon's productions.

For these reasons, the Court GRANTS Plaintiffs' Construed Motion and COMPELS the deposition of Dante Albano.

C. Tom Bingham

Bingham was a VP of sales at Avlon. One witness referred to him as “the top of the sales ladder.” Washington Dep. Tr. at 374:4–16.

Plaintiffs have also been diligent in timely seeking Bingham's deposition, even though Plaintiffs sought his deposition after the August 1 deadline. Like Albano, Plaintiffs did not have an obvious reason to think he would be an important witness as (1) he did not appear in Defendant Avlon's disclosures, and (2) while Plaintiffs did know enough about him to ask for his custodial file, Defendants did not have a custodial file to turn over, which could have shed light on the importance of his role or testimony. Without more information on him earlier, it was not until other depositions that Plaintiffs became fully aware of his importance.

For these reasons, the Court GRANTS Plaintiffs' Construed Motion and COMPELS the deposition of Tom Bingham.

SO ORDERED.

DATED: October 28, 2025



HON. BETH W. JANTZ
United States Magistrate Judge