

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2021-008265
LC 2021-000180-001

02/10/2022

HONORABLE MICHAEL W. KEMP

CLERK OF THE COURT
A. Meza
Deputy

AMERICAN OVERSIGHT

ROOPALI HARDIN DESAI

v.

KAREN FANN, ET AL.

THOMAS J. BASILE
DAVID JEREMY BODNEY
JOHN DOUGLAS WILENCHIK
KORY A LANGHOFER
KEITH BEAUCHAMP
JORDAN C WOLFF
DAVID ANDREW GAONA
CRAIG CARSON HOFFMAN
DENNIS I WILENCHIK

PHOENIX NEWSPAPERS, INC., ET AL.

v.

ARIZONA STATE SENATE (001), ET AL.

COURT ADMIN-CIVIL-ARB DESK
DOCKET-CIVIL-CCC
JUDGE KEMP
REMAND DESK-LCA-CCC

MINUTE ENTRY

The Court has reviewed Defendant Cyber Ninjas, Inc.'s ("CNI") Objection and Motion to Reconsider and Plaintiff American Oversight's ("AO") Response.

On January 18, 2022, the Court granted AO's request to award \$1,000 as a sanction for CNI's Douglas Logan's failure to appear for a deposition scheduled for January 5, 2022. To

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avoid possible sanctions, a party must file a motion for protective order prior to the start of a deposition of a party's officer, director or managing agent. Rule 37(f)(1) and (2), Ariz. R. Civ. P. Reasonable expenses, including attorneys' fees are an appropriate sanction. Rule 37(f)(3), Ariz. R. Civ. P.

Here, CNI was on notice for the deposition on December 16, 2021. A Motion for Protective Order was not filed. CNI merely informed AO on January 3, 2022 that CNI was not appearing for the deposition on January 5, 2022. The sanction is appropriate to cover expenses for filing an Emergency Motion to Compel and pre-filing communications relative to the deposition.

CNI's argument that discovery is precluded prior to a Rule 26.1 disclosure statement being served is misplaced. This is a special action proceeding pursuant to Rule 4(c) Ariz. R. P. Spec. Action, and neither side has made a Rule 26.1 disclosure pursuant to the Arizona Rules of Civil Procedure.

The Motion to Reconsider is denied.