

DISTRICT COURT OF THE VIRGIN ISLANDS

DIVISION OF ST. CROIX

ALFRED LOPEZ,

Plaintiff,

1:03-cv-3

v.

KMART CORPORATION,

Defendant.

TO: Lee J. Rohn, Esq.
Wilfredo A. Geigel, Esq.

**ORDER REGARDING DEFENDANT'S MOTION REQUESTING BRIEF
EXTENSION**

THIS MATTER came before the Court upon Defendant's Motion Requesting Brief Extension of Order For Medical Examination (Docket No. 106). Plaintiff filed an opposition to said motion. The time for filing a reply has expired.

Defendant seeks a brief extension to August 4, 2009, for Plaintiff's medical examination that was ordered by the Court in its Order Regarding Defendant's Motion Requesting Sanctions (Docket No. 103), entered July 13, 2009. Plaintiff filed an opposition, but does not object to the extension of time. Thus, the Court will extend the examination deadline to August 4, 2009.

Lopez v. Kmart Corp.

1:03-cv-3

Order Granting Defendant's Motion Requesting Brief Extension

Page 2

Defendant also requests clarification of the Court's said Order, where it directed that "Plaintiff shall bear all his travel expenses and costs related to said IME." Plaintiff claims that he returned the per diem to Defendant, but does not provide the proof as indicated by his opposition. Plaintiff also claims that Defendant did not lose the cost of Plaintiff's airfare, but will be assessed a change fee when the ticket is reissued. Based upon Plaintiff's representations, the Court will order Defendant to provide Plaintiff with one (1) airline ticket and per diem for Plaintiff, only. The cost and expense for any additional traveler(s) shall be borne by Plaintiff. In addition, the Court clarifies that its previous order pertained to travel costs and expenses only and not to the costs of the actual examination. Thus, Defendant cannot attempt to shift its responsibility to pay Dr. Fernandez for the examination to Plaintiff.

Accordingly, it is hereby **ORDERED**:

1. Defendant's Motion Requesting Brief Extension of Order For Medical Examination (Docket No. 106) is **GRANTED**.
2. Paragraphs numbered 2 and 3 of the Court's Order Regarding Defendant's Motion Requesting Sanctions (Docket No. 103), entered July 13, 2009, is **AMENDED** as follows:

Lopez v. Kmart Corp.

1:03-cv-3

Order Granting Defendant's Motion Requesting Brief Extension

Page 3

- a. Plaintiff shall make himself available and attend a medical examination, as previously agreed, at a date and time acceptable to the examiner, on or before **August 4, 2009**.
 - b. Defendant shall provide Plaintiff with a re-issued airline ticket for his travel to said examination as well as the agreed-upon per diem for Plaintiff.
 - c. Plaintiff shall pay any change fee assessed by the airline for the reissuance of his plane ticket and any travel costs and expenses for any additional traveler(s).
3. All other provisions of said Order remain unchanged and in full force and effect.

ENTER:

Dated: July 24, 2009

/s/ George W. Cannon, Jr.
GEORGE W. CANNON, JR.
U.S. MAGISTRATE JUDGE