

Commonwealth v. Mega Life & Health Ins. Co.

Superior Court of Massachusetts, At Suffolk

March 6, 2024, Decided

CIVIL ACTION NO. 0684CV4411-BLS1

Reporter

2024 Mass. Super. LEXIS 24 *

COMMONWEALTH OF MASSACHUSETTS vs. MEGA LIFE & HEALTH
INSURANCE COMPANY et al.

Prior History: [Commonwealth v. Mega Life & Health Ins. Co., 2022 Mass. Super. LEXIS 12, 2022 WL 10392550 \(Mass. Super. Ct., Apr. 25, 2022\)](#)

Judges: [*1] H     Kazanjian, Associate Justice, Superior Court.

Opinion by: H     Kazanjian

Opinion

ORDER

Hearings were held on January 29 and February 6, 2024, for argument on disputed deposition designations. Most of the disputed issues were either resolved or ruled on during the hearings. The court makes the following additional rulings:

1. All unresolved relevance objections will be resolved by the court as it considers the evidence for the purpose of issuing its Findings of Fact and Rulings of Law.
2. The court will not treat any proposed CID testimony as a deposition under [Rule 32](#). However, to the extent that the CID testimony constitutes "An Opposing Party's Statement" as is outlined in the Massachusetts Guide to Evidence, Section 801(d)(2)(D), the court will consider it. Section 801(d)(2)(D) provides that a statement is not hearsay if it is offered by an opposing party and "was made by the party's agent or employee on a matter within the scope of that relationship and while it existed." There must be independent evidence, other than the proposed

CID testimony, establishing the agency relationship for the court to admit the statements. See [Campbell v. Olender, 27 Mass. App. Ct. 1197, 1198, 543 N.E.2d 708 \(1989\)](#). The parties may argue during closings and/or in their written final proposed findings of fact and rulings of law, as [*2] to whether particular designated CID testimony is admissible as an opposing party's statement,

3. The Commonwealth is not precluded from proposing rebuttal designations, which they have done. The specific admissibility of the rebuttal designations will be handled the same as all the other designations. That is, the court will consider whether they are admissible as opposing party's statements, and if the court determines they are admissible, will evaluate the relevance of the statements as it considers the evidence for the purpose of issuing its Findings of Fact and Rulings of Law.

SO ORDERED.

/s/ Hélène Kazanjian

Hélène Kazanjian

Associate Justice, Superior Court

Dated: March 6, 2024

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