UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

Scientific Drilling International, Inc., *Plaintiff*,	§	
	§	
vs.	§	Civil Action H-06-1634
	§	
Pathfinder Energy Services Inc., *et al.*, *Defendants*.	§	

MEMORANDUM AND ORDER

Before the court is a motion to quash and motion for protective order filed by defendants (collectively "Pathfinder"). (Dkt. 44). In response, plaintiff SDI has filed an application for leave to conduct additional discovery. (Dkt. 55). SDI has served subpoenas commanding the depositions of five employees of W-H Energy, parent company of defendant Pathfinder Energy Services. Pathfinder moves to quash the subpoenas and for a protective order on the basis that SDI has already taken sixteen depositions, exceeding the limit set by the federal rules. Pathfinder alleges that SDI's discovery requests are burdensome and duplicative, and an attempt to harrass W-H Energy, a non-party. Pathfinder also asserts that SDI's deposition notice of Stuart Ford must be quashed under the attorney-client privilege and attorney work product doctrine.

The federal rules prescribe a presumptive limit of ten depositions as the number of depositions that may reasonably be taken in a civil suit. FED. R. CIV. P. 30(a)(2)(A); *Barrow v. Greenville Indep. Sch. Dist.*, 202 F.R.D. 480, 482 (N.D. Tex. 2001). A party seeking leave to take more than ten depositions is limited by Fed. R. Civ. P. 26(b)(2). Under Rule 26, the

court may limit the frequency or extent of use of the discovery methods otherwise permitted on determination that:

> (i) the discovery sought is unreasonably cumulative or duplicative, or is obtainable from some other source that is more convenient, less burdensome, or less expensive;
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> (ii) the party seeking discovery has had ample opportunity by discovery in the action to obtain the information sought; or
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> (iii) the burden or expense of the proposed discovery outweighs its likely benefit, taking into account the needs of the case, the amount in controversy, the parties' resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving the issues.

A party seeking leave to take more than ten depositions must also demonstrate the necessity of the additional depositions. *See Barrow*, 202 F.R.D. at 483-84.

Exceeding the presumptive limit set by Rule 30(a)(2)(A), SDI seeks to depose five W-H Energy employees including Ken White, W-H Corporate Representative, W-H Document Custodian, Jeff Tepara, and Stuart Ford. Stuart Ford, vice president of W-H Energy, is also an attorney representing Pathfinder in this case. In support of their motion for leave, SDI states that it has only deposed one W-H Energy employee. Furthermore, SDI argues that it did not learn of W-H's true connection with this case until it deposed Mac Thomas who stated that Messrs, Ford, White, and Tepara were at a meeting concerning SDI. SDI also asserts that the additional depositions will not operate as an undue burden or expense to Pathfinder or W-H Energy, which publicly trades its stock and recently reported a quarterly revenue of $215,755,000.

SDI's stated reasons are conclusory and do not demonstrate the necessity for taking additional depositions beyond the limit prescribed by Rule 30(a)(2)(A). This court has already denied SDI's motion to join W-H Energy as an additional party, and SDI has not indicated that the circumstances have significantly changed since that order. As evidenced by its previous requests for production and its interrogatories, SDI has had ample opportunity to discover information relating to the relevance of W-H Energy and its employees to this lawsuit. SDI's request to take five additional depositions is also duplicative. Therefore, the motion to conduct additional discovery is denied.

For these reasons, defendants' motion to quash and for protective order with respect to the subpoenas commanding depositions of White, W-H Corporate Representative, W-H Document Custodian, Tepara, and Ford is GRANTED. Plaintiff's application for leave to conduct additional discovery is DENIED.

Signed at Houston, Texas on November 17, 2006.

Stephen Wm Smith
United States Magistrate Judge