

UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF
FLORIDA, ORLANDO DIVISION

**Barbara Penaroque and Antonio Penaroque v. Allstate Fire and
Casualty Insurance Company and Daniel Torres**

Penaroque · No. 6:25-cv-1543-PGB-LHP · Decided December 4, 2025

SUMMARY

The court addresses three discovery motions concerning depositions, document production, and sanctions in an insurance action removed from state court. It orders supplemental briefing on whether prior state-court discovery remains effective after removal, whether Federal Rule of Civil Procedure 30 limits renewed depositions, and whether production or sanctions may be compelled based on state-court discovery.

CASE DETAILS

COURT	United States District Court for the Middle District of Florida, Orlando Division
WRITING FOR THE COURT	Leslie Ann Price
JURISDICTION	United States District Court for the Middle District of Florida, Orlando Division
DECIDED	December 4, 2025
DOCKET	6:25-cv-1543-PGB-LHP
DISPOSITION	other
PROCEDURAL POSTURE	The court considered Plaintiffs' motion for a protective order concerning the scope of updated depositions and Allstate's motions to compel depositions, compel production, and obtain sanctions. Rather than rule on the motions, the court ordered supplemental briefing concerning the effect of pre-removal state-court discovery and the applicability of Federal Rule of Civil Procedure 30(a)(2)(A)(ii).
PRECEDENTIAL VALUE	nonprecedential district court order

TOPICS

discovery dispute

sanctions

civil procedure

insurance

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether Federal Rule of Civil Procedure 30(a)(2)(A)(ii) limits depositions in federal court when the same deponent was previously deposed in state court before removal.
2. Whether the federal court may compel production or impose sanctions based on written discovery served and answered in state court, particularly when the motion is filed more than two years after the discovery was served.
3. Whether the parties stipulated to renewed depositions and, if Rule 30(a)(2)(A)(ii) applies, whether leave of court is required.

KEY QUOTATIONS

“the majority of the courts that have addressed the issue of the effectiveness of state court discovery after removal to federal court hold that the state court discovery ‘becomes null and ineffective upon removal’ by operation of the requirement in Rule 26(d) that the parties confer about a discovery plan before conducting discovery.”

FACTUAL BACKGROUND

The discovery disputes arose from discovery conducted in state court before the action was removed to federal court. Plaintiffs were deposed in state court on November 14, 2024, and the parties disputed whether Plaintiffs could be deposed again on previously covered topics and matters discovered later. Allstate also sought production and sanctions based on written discovery served in state court in 2023, but it did not attach the underlying discovery requests to its federal motion.

PROCEDURAL HISTORY

The parties conducted discovery in state court before removal, including Plaintiffs' depositions on November 14, 2024 and written discovery served in 2023. After removal, Plaintiffs sought a protective order regarding renewed depositions, while Allstate moved to compel depositions and production and sought sanctions for alleged noncompliance with state-court discovery. The court found that the parties had not adequately addressed the legal effect of the state-court discovery or the basis for imposing sanctions in federal court and ordered each party to file a supplemental brief within fourteen days.

DISPOSITION

other

CASES CITED

- Map & Globe, LLC v. Hartford Fire Ins. Co., No. 6:20-cv-1584-Orl-40GJK, 2020 WL 6887934, at *1 (M.D. Fla. Sept. 18, 2020)
- Atwell v. Oliveras, No. 6:24-cv-2060-CEM-RMN, 2025 WL 1167834, at *1 (M.D. Fla. Apr. 22, 2025)

- Woods v. Waste Pro USA, Inc., No. 5:20-cv-144-AW-MJF, 2021 WL 4125889, at *2 (N.D. Fla. Feb. 4, 2021)

OPINION

UNITED STATES DISTRICT COURT MIDDLE DISTRICT OF FLORIDA ORLANDO DIVISION BARBARA PENAROQUE and ANTONIO PENAROQUE, Plaintiffs, v. Case No: 6:25-cv-1543-PGB-LHP ALLSTATE FIRE AND CASUALTY INSURANCE COMPANY and DANIEL TORRES, Defendants ORDER This cause comes before the Court on several discovery matters.

First, Plaintiffs have filed a Motion for Protective Order Concerning Scope of Update Depositions. Doc. No. 50. Defendant Allstate Fire and Casualty Insurance Company (“Allstate”) responds in opposition. Doc. No. 53.

Second, and relatedly, Allstate has filed a Motion to Compel Depositions and for Sanctions, Doc. No. 52, to which Plaintiffs respond in opposition, Doc. No. 55. Third, Allstate has filed a Motion to Compel Production and Motion for Sanctions. Doc. No. 51. Plaintiff responds in opposition. Doc. No. 54. Upon consideration, each of these motions relate to discovery that began in state court.

The first two motions, which relate to Plaintiffs’ depositions, both state that Plaintiffs’ depositions occurred in state court prior to removal (on November 14, 2024), and the dispute concerns whether Plaintiffs may be re-deposed here on topics covered in that deposition as well as information that was discovered thereafter. Doc. Nos. 50, 52.

The third motion concerns Allstate’s claim that Plaintiffs failed to comply with discovery served in state court some time in 2023,¹ and Allstate’s request for sanctions therefor. Doc. No. 51. “[T]he majority of the courts that have addressed the issue of the effectiveness of state court discovery after removal to federal court hold that the state court discovery ‘becomes null and ineffective upon removal’ by operation of the requirement in Rule 26(d) that the parties confer about a discovery plan before conducting discovery.” Map & Globe, LLC v. Hartford Fire Ins.

Co., No. 6:20-cv-1584- Orl-40GJK, 2020 WL 6887934, at *1 (M.D. Fla. Sept. 18, 2020) (collecting cases); see also, e.g., Atwell v. Oliveras, No. 6:24-cv-2060-CEM-RMN, 2025 WL 1167834, at *1 (M.D. Fla. Apr. 22, 2025); Woods v. Waste Pro USA, Inc., No. 5:20-cv-144-AW-MJF, 2021 WL 4125889, at *2 (N.D. Fla. Feb. 4, 2021).

The parties do not address this ¹ In contravention of the requirements of the Standing Order on Discovery Motions, Allstate fails to attach the actual discovery requests to the motion, and only includes Plaintiffs’ responses, served on November 6, 2023. See Doc. No. 51, at 17–22. See also Doc. No. 32 ¶ 3. issue in their filings, do not explain whether Federal Rule of Civil Procedure 30 would apply to limit depositions here given the prior depositions in state court, and do not explain

how sanctions for alleged non-compliance with discovery served in 2023 in state court would warrant the imposition of sanctions in this Court.

See Doc. Nos. 50–55. Accordingly, the Court will require supplemental briefing from the parties on these issues. It is therefore ORDERED that within fourteen (14) days of the date of this Order, the parties shall each file a supplemental brief, not to exceed seven (7) pages in length respectively, addressing, by citation to legal authority, the following: 1.

Whether Federal Rule of Civil Procedure 30(a)(2)(A)(ii) operates to limit depositions in this Court where the same deponent was already deposed in state court prior to the removal of the case to federal court.² 2. Whether compelling production of documents and/or sanctions is appropriate based on written discovery served and answered in state court, particularly where the motion to compel/for sanctions is filed in federal court over two years after said discovery was served.

2 To the extent that Rule 30(a)(2)(A)(ii) does apply, and thus the depositions in this Court may proceed only upon stipulation or leave of Court, the parties may also address, by citation to legal authority, whether they actually stipulated to the second depositions, given the parties' dispute on the scope of that stipulation. Alternatively, of course, the parties may withdraw any of these motions as they deem appropriate.

The parties are reminded of their obligation to continue to confer regarding these disputes and must notify the Court if they resolve the motions in whole or in part. See Doc. No. 32 4 8. DONE and ORDERED in Orlando, Florida on December 4, 2025. LESLIE 3 AN PRICE UNITED STATES MAGISTRATE JUDGE Copies furnished to: Counsel of Record