

SCW

SHORT FORM ORDER

SUPREME COURT - STATE OF NEW YORK

Present:

HON. F. DANA WINSLOW,

Justice

**TRIAL/IAS, PART 7
NASSAU COUNTY**

EUNICE ELLISON,

Plaintiff,

-against-

**MOTION DATE: 6/2/08
MOTION SEQ. NO.: 004, 005**

**BENJAMIN FEINSOD, ROLAND D. HALE,
ALFRED TECHNICAL SERVICES,
EVERGREEN LABS, EVERGREEN OF EL
PASO, INC. and EVERGREEN RECYCLING, INC.**

INDEX NO.: 12621/06

Defendant(s).

The following papers having been read on the motion (numbered 1-4):

Notice of Motion.....	1
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Motion (seq. No. 4) by the attorneys for the plaintiff for an order holding defendant Roland D. Hale in contempt for failure to appear at a deposition pursuant to CPLR 5224; and cross-motion (seq. No. 5) by the attorneys for the defendant Roland D. Hale for an order granting sanctions, fees and costs against plaintiff and her counsel are **adjourned *sua sponte*** to October 1, 2008.

Based upon an electronically signed and finalized letter by Garrett Riggs, M.D., the attorney for defendant Roland D. Hale asserts that:

Roland Hale is an elderly individual, currently under the care of a Neurologist for treatment of Alzheimer's disease, primary progressive aphasia, and dementia. As a

result of Mr. Hale's continued debilitating medical conditions, Mr. Hale suffers from language dysfunction (word retrieval blocking with moderate semantic paraphasic substitutions) and impaired attention. He is currently taking six medications for treatment of his ailments. (Korik affirmation dated May 19, 2008).

Absent a detailed affidavit or affirmation from a licensed physician (see CPLR 2106 Affirmation of Truth with Statement by attorney, physician, osteopath or dentist) served on the attorney for the plaintiff and this Court stating that due to Roland D. Hale's medical condition, defendant Hale is unable to appear at an examination before trial,

It is the order of this Court that Ronald D. Hale shall appear for a deposition on October 15, 2008 at 1:00 PM or an earlier date mutually agreed upon by counsel at the Allegany County Courthouse , 7 Court Street, in Belmont, N.Y.

Failure of Ronald D. Hale to appear for the deposition as directed may result in an order of contempt, sanctions, court costs and the imposition of legal fees.

The within motions are adjourned to October 1, 2008, to determine whether defendant Ronald D. Hale complied with the directions set forth herein.

This constitutes the Order of the Court.

Dated: September 16, 2008

ENTER:

1-1 Dana Winslow
J.S.C. **ENTERED**

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NASSAU COUNTY
COUNTY CLERK'S OFFICE