

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

CHARLES E. SPARRGROVE, III
and JANE M. SPARRGROVE,

Plaintiffs,

v.

CLIFFORD WACHTER, TRUDY
WACHTER, CLARK KEPPLINGER,
ANDREA L. BAKER, DEAN HOULBERG,
and BANK OF MONTICELLO,

Defendants.

MEMORANDUM

04-C-21-C

Plaintiffs have filed an “affidavit of purgation” in which they attest that they attended a deposition that took place on March 26, 2004, at 9:00 a.m. of their own free will. They complain that they were never subpoenaed or notified that they would be questioned by one of the two attorneys who participated in the deposition. The Federal Rules of Civil Procedure do not mandate the use of subpoenas; Fed. R. Civ. P. 30(a)(1) provides only that “the attendance of a witness *may* be compelled by subpoena.” (Emphasis added). Although a subpoena may have been necessary to compel plaintiffs’ attendance, plaintiffs have indicated that they attended the deposition of their own free will.

The fact that plaintiffs were not notified that the second attorney would be present

is of no consequence. A party is entitled to notice only of the time and place of the deposition, the name and address of the person to be deposed and the method by which the deposition will be recorded. Fed. R. Civ. P. 30(b)(1)-(2). To the extent plaintiffs may now be seeking some form of relief in their “affidavit of purgation,” none is warranted based on the averments contained therein.

Entered this 12th day of April, 2004.

BY THE COURT:

BARBARA B. CRABB
District Judge