

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

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CRAIG AMIN,

Petitioner,

v.

UNITED STATES POSTAL SERVICE,

Respondent.

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ORDER

06-C-102-X

Petitioner Craig Amin has filed a verified petition pursuant to F. R. Civ. Pro. 27(a) seeking to preserve certain evidence and facts, and to perpetuate testimony in anticipation of a lawsuit against the United States Postal Service. For the reasons explained below, I am denying relief.

As detailed in his petition, on September 10, 2005, petitioner mailed a certified letter to “Pension Financial Services” in Dallas, Texas, and on February 6, 2006, he mailed a certified mail envelope to the Wisconsin Department of Revenue in Madison, Wisconsin. The Postal Service never confirmed delivery. Petitioner inquired of the Postal Service, which attempted to alleviate his concerns, but was unable to explain with precision why its certified mail procedures had not been followed. It is not clear whether petitioner called Pension Financial Services or the Wisconsin Department of Revenue to learn whether they had received his mailings.

Petitioner intends to sue the Postal Service based on its failure to track his certified letter and envelope, but first he wishes to obtain information from the Postal Service about what happened. Hence, the instant petition, in which petitioner seeks a court order allowing him, before filing suit, to depose Postal Service employees, obtain relevant documents, and examine other evidence pursuant to F.R. Civ. Pro. 30, 31 and 34.

Rule 27 is not a substitute for broad discovery, nor is it designed as a means of ascertaining facts for drafting a complaint. *See In Re: Deiulemar Compagnia di Navigazione S.p.A.*, 198 F.3d 473, 485-86 (4<sup>th</sup> Cir. 1999). The rule is intended to address an immediate need to preserve material evidence that otherwise might be permanently lost before the plaintiff is in a position to file his lawsuit. *See, e.g., Penn Mutual Life Ins. Co. v. United States*, 68 F.3d 1371, 1374-75 (D.C. Cir. 1995). Even then, a petitioner must demonstrate that perpetuation of testimony from specific witnesses is necessary to prevent a failure or delay of justice. This requires a petitioner to make a narrowly-tailored showing of the substance of the testimony expected from each person to be deposed, and a showing that the testimony of each such witness cannot easily be provided by some other witness. *Id.* at 1375-76.

In the instant case, petitioner merely wishes to obtain pre-litigation discovery in order to determine whether it is worth his while to file a federal lawsuit against the Postal Service for having failed to follow its procedures regarding certified mail. Petitioner is free to investigate his case in any appropriate manner; this would *not* include Rule 27's perpetuation

mechanism. The rule is designed for a completely different circumstance than that presented here. Accordingly, petitioner is not entitled to relief.

It is ORDERED that petitioner's petition to perpetuate testimony in evidence is DENIED.

Entered this 17<sup>th</sup> day of March, 2006.

BY THE COURT:

/s/

STEPHEN L. CROCKER  
Magistrate Judge