

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

Case No.09-80480-Civ-Hurley/Hopkins

JONATHAN E. PERLMAN, Esq., as court  
appointed Receiver of Creative Capital  
Consortium, LLC, et al.,

Plaintiff,

vs.

DOROTHY DELISFORT-THEODULE, et al.,

Defendants.

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**ORDER TO SHOW CAUSE TO DEFENDANT REGARDING  
PLAINTIFF'S MOTION TO COMPEL (DE 45)**

**THIS CAUSE** has come before this Court upon an Order referring all discovery to the undersigned for final disposition. (DE 8).

This Court has before it Plaintiff's Motion to Compel Defendant Dorothy Delisfort-Theodule's Attendance at a Deposition, which was to occur on March 24, 2010. (DE 45). The discovery cutoff date was March 15, 2010, and trial in this matter is set for April 5, 2010. (DE 8).

In the motion, Plaintiff alleges that on March 4, 2010, Defendant Dorothy Delisfort-Theodule was served with a deposition notice, scheduling her deposition for March 24, 2010 at 10:00 a.m. in Atlanta, Georgia, approximately 25 miles from Defendant's home. (DE 45, Ex. A). On March 23, 2010, the day before the deposition was to occur, Defendant emailed Plaintiff's counsel that she would not attend the deposition. (DE 45 at ¶3). As a result, Plaintiff moves this Court to compel Defendant's attendance at a deposition prior to the commencement of trial. (DE 45).

After considering the foregoing, and being otherwise advised on the premises, it is **HEREBY**

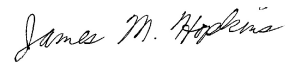
**ORDERED AND ADJUDGED** as follows:

1.) Defendant is **ORDERED** to show cause why Plaintiff's Motion to Compel should not be granted and sanctions should not be awarded for failing to attend the deposition noticed for March 24, 2010. *See* Fed. R. Civ. P. 37(d)(providing that if a party fails to appear for a properly noticed deposition, the court may sanction the non-appearing party pursuant to 37(b)(2)(A), (B), or (C), and may order the non-appearing party to pay the reasonable expenses, including attorney's fees, caused by the failure to attend, unless the court finds that the failure to appear was substantially justified or that other circumstances make an award of expenses unjust); *Kovacs v. Koot*, 2007 WL 604927, \*1-\*3 (S.D. Fla. Feb. 22, 2007)(granting motion to compel attendance at deposition, and ordering monetary sanctions for the party's failure to appear at deposition).

2.) Defendant is **ORDERED** to file with the Court a written response to this Order to Show Cause by **March 29, 2010**.

3.) Failure to respond to the instant Order to Show Cause may result in the granting of Plaintiff's motion by default, and/or the imposition of sanctions.

**DONE AND ORDERED** in Chambers this 24 day of March, 2010, at West Palm Beach in the Southern District of Florida.



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JAMES M. HOPKINS  
UNITED STATES MAGISTRATE JUDGE

cc:

Counsel of Record

Dorothy Delisfort-Theodule, *pro se*  
2108 New London Place  
Snelville, GA 30078-3027