

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.

ORDER GRANTING PLAINTIFF'S MOTION TO COMPEL (DE 45)

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

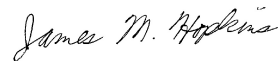
This Court has before it Plaintiff's Motion to Compel Defendant Dorothy Delisfort-Theodule to appear for a deposition. (DE 45). On March 4, 2010, Defendant was served with a deposition notice, scheduling her deposition for March 24, 2010 at 10:00 a.m. in Atlanta, Georgia, approximately 25 miles from 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).

Plaintiff immediately filed this motion to compel and on March 24, 2010, this Court issued an Order to Show Cause directing Defendant to respond by March 29, 2010 or risk having the motion granted by default and sanctions imposed. (DE 50). Despite this warning, Defendant has failed to respond to Plaintiff's motion or this Court's Order.

In light of the foregoing, it is **HEREBY ORDERED AND ADJUDGED THAT** Plaintiff's Motion to Compel (DE 45) is **GRANTED** by default. *See* S.D. Fla. L.R. 7.1.C (April 2009) (failure to file an opposing memorandum of law is sufficient cause for granting a motion by default). Defendant Dorothy Delisfort-Theodule is **ORDERED** to appear for a deposition forthwith at a date and time to be noticed by Plaintiff.

Any documents Plaintiff would like the Court to consider in determining the amount of sanctions to be imposed against Defendant shall be filed within one week of this Order. *See* Fed. R. Civ. P. 37(d)(1)(A)(authorizing the court to order sanctions where a party fails to appear for a properly noticed deposition); *Carpenters Local 140 Pension Fund v. Phillips*, 2006 WL 3841801, *2 (M.D. Fla. Dec. 5, 2006)(where defendant failed to appear for properly noticed deposition, nor provided any justification, court held that monetary sanctions were "more than appropriate")

DONE AND ORDERED in Chambers this 30 day of March, 2010, at West Palm Beach in the Southern District of Florida.



JAMES M. HOPKINS
UNITED STATES MAGISTRATE JUDGE

Copies to: Counsel of Record

Dorothy Delisfort-Theodule, *pro se*
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