

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO**

Civil Action No. 07-cv-01011-DME-KMT

ROY ALLEN GREEN,

Plaintiff,

v.

FEDERAL BUREAU OF PRISONS  
WARDEN WILEY,  
DR. LAWRENCE LARVA [sic DR. LEYBA], and  
DR. NAFZIGER,

Defendants.

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**ORDER RE: DEFENDANTS' MOTION FOR LEAVE TO  
DEPOSE PLAINTIFF ROY ALLEN GREEN**

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The Court, having considered Defendants' Motion for Leave to Depose Plaintiff Roy Allen Green, filed pursuant to Federal Rule of Civil Procedure 30(a)(2)(B), and finding good cause therefor, hereby orders that Plaintiff will cooperate with the discovery this Court has allowed. Specifically, Plaintiff will make himself available for a deposition on March 30, 2009, at the BOP facility where he may then be located (currently, he is in Adelanto, California). At this time, Defendants' counsel plans to travel to Adelanto, California, to depose Mr. Green.

In the event that Mr. Green refuses to participate in the deposition – even after this Order has issued, the Court warns Mr. Green that the Court will impose appropriate sanction upon Plaintiff Green, to include dismissal of his case against all Defendants, with prejudice. *See, e.g., Ehrenhaus v. Reynolds*, 965 F.2d 916, 920-21 (10th Cir.1992) (affirming the district court's imposition of an order dismissing the plaintiff's complaint with prejudice as a sanction);

*United States v. \$72,100.00 in U.S. Currency*, No. 08-4085, 2009 WL 247837, at \*3 -4 (10th Cir. Feb. 3, 2009) (concluding that Plaintiff's conduct prejudiced the United States, as it incurred unnecessary additional time, effort and expense in connection with the case); *Gomez v. Volpe*, No. 9:06-cv-900 (LEK/GJD), 2008 WL 833942, at \*2 -3 (N.D.N.Y. March 27, 2008) (recommending dismissal as a discovery sanction given that Defendants would be prejudiced by not being able to obtain discovery on Plaintiff's claims).

Dated this 9th day of March, 2009.

**BY THE COURT:**



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Kathleen M. Tafoya  
United States Magistrate Judge