

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO  
**Magistrate Judge Kathleen M. Tafoya**

Civil Action No. 11-cv-00400-KMT-KLM

BERNARD KENNETH MYERS,

Plaintiff,

v.

DORWIN DWAYNE HUMMEL,

Defendant.

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**ORDER**

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This matter is before the court on Plaintiff's "Motion for Plaintiff [sic] Deposition by Defense to be Done via Phone." (Doc. No. 115, filed Dec. 1, 2011.) Defendant responded to Plaintiff's Motion on December 2, 2011 (Doc. No. 118), and Plaintiff filed his Reply on December 7, 2011 (Doc. No. 119).

A hearing on Plaintiff's Motion was held on December 9, 2011 at 9:30 a.m. (Doc. No. 121.) At that hearing, the court ordered Plaintiff to complete a financial affidavit and submit it to the court for *in camera* review on or before December 13, 2011 in order to establish that Plaintiff's financial circumstances justify granting him leave of court to appear for his deposition via video-conferencing. (*Id.*) The court also ordered Plaintiff, on or before December 13, 2011, to submit a statement informing the court of the method by which he will be available for an internet video deposition. (*Id.*)

Plaintiff submitted his financial affidavit via fax to the court on December 12, 2011, and the court has reviewed the same *in camera*. Based on the representations contained therein, the court finds that Plaintiff's financial circumstances justify permitting him to appear for his deposition via video-conferencing. Additionally, Plaintiff filed his "Status Update on Plaintiff to Secure Computerized Video Conference for Deposition" on December 13, 2011. (Doc. No. 121.) In his Status Update, Plaintiff informed the court that he secured a location to participate in the deposition via Skype video-conferencing.

Therefore, it is

ORDERED that Plaintiff's "Motion for Plaintiff [sic] Deposition by Defense to be Done via Phone" (Doc. No. 115) is GRANTED in part. Plaintiff's deposition shall proceed on December 16, 2011 at 9:30 a.m. Mountain Standard Time. Plaintiff shall appear via Skype internet video-conferencing for his deposition. Defendant shall arrange for a court reporter in Colorado to make a transcript of the deposition.

It is further

ORDERED that Plaintiff's financial affidavit, as faxed to this court for *in camera* review on December 12, 2011, shall be under Restriction Level 3 as an attachment to this order, pursuant to D.C.COLO.LCivR 7.2B.5.

Dated this 14th day of December, 2011.

**BY THE COURT:**



Kathleen M. Tafoya  
United States Magistrate Judge