

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 11-cv-01396-RBJ-KLM

FEDERAL TRADE COMMISSION and
STATE OF COLORADO, *ex rel.* JOHN W. SUTHERS, ATTORNEY GENERAL,

Plaintiffs,

v.

RUSSELL T. DALBEY,
DEI, LLLP,
DALBEY EDUCATION INSTITUTE, LLC,
IPME, LLLP,
CATHERINE L. DALBEY, and
MARSHA KELLOGG,

Defendants.

MINUTE ORDER

ENTERED BY MAGISTRATE JUDGE KRISTEN L. MIX

This matter is before the Court on the **Motion to Quash Subpoena and Continue Responses to Plaintiffs' Requests for Discovery of Documents** [Docket No. 96; Filed September 23, 2011] (the "Motion"), filed by Defendants Russell T. Dalbey and Catherine L. Dalbey (the "Dalbey Defendants"). The Dalbey Defendants represent that the Motion is opposed by Plaintiffs. *Motion* [#96] at 1.

Pursuant to the Order Setting Scheduling/Planning Conference [Docket No. 24], the Motion is premature. The Order Setting Scheduling/Planning Conference [#24] provides as follows:

No opposed discovery motions are to be filed with the Court until the parties comply with D.C.COLO.LCivR 7.1A. If the parties are unable to reach agreement on a discovery issue after conferring, they shall arrange a conference call with Magistrate Judge Mix to attempt to resolve the issue. **Both of these steps must be completed before any contested discovery motions are filed with the Court.**

Order Setting Scheduling/Planning Conference [#24] at 2 § E.1 (emphasis added).

The Dalbey Defendants have not arranged a conference call to attempt to resolve

the instant discovery dispute. Accordingly,

IT IS HEREBY ORDERED that the Motion is **DENIED without prejudice**.

IT IS FURTHER ORDERED that neither party shall file a contested discovery motion until after (1) unsuccessfully conferring with the other party pursuant to D.C.COLO.LCivR 7.1A, and (2) receiving leave from the Court to file the motion. To conduct a hearing regarding a discovery dispute, the parties shall initiate a conference call and then, once all parties are on the line, dial the Court at **303-335-2770**.

Dated: September 26, 2011