

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO  
Magistrate Judge Kristen L. Mix**

**Civil Action No.12-cv-00190-PAB-KLM**

**FTR - Reporter Deck - Courtroom C-204  
Byron G. Rogers United States  
Courthouse  
Courtroom Deputy, Laura Galera**

**Date: September 27, 2013**

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JOHN M. MBAKU  
LUVIBIDILA JOLIE LUMUENEMO

Not Present  
Not Present

Plaintiffs,

v.

BANK OF AMERICA, NATIONAL  
ASSOCIATION

Melissa Cizmorris  
Victoria Edwards

Defendant,

ATTORNEY GENERAL JOHN W. SUTHERS,

Lee Ann Morrill

Intervenor,

LAWRENCE E. CASTLE,  
CHRISTOPHER GROEN,  
ALISON L. BERRY, and  
CHRISTA N. KILK,

Christopher Groen  
Phillip A. Vaglica

Interested Parties.

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**MOTION HEARING**

**Court in session: 9:45 a.m.**

Appearances of counsel. Plaintiffs fail to appear and were unable to be reached by telephone.

Discussion regarding pending motions.

Court reviews the appropriate procedures plaintiffs must follow regarding the deposition of defendant pursuant to Fed. R. Civ. P. 30(b)(6). Plaintiffs must follow Magistrate

Judge Mix's procedures if a discovery dispute arises.

- It is ORDERED:** Plaintiffs may attempt to obtain relevant information from the defendant by means of a Rule 30(b)(6) deposition. Plaintiffs must draft a proper notice of deposition, including designations of deposition topics, must agree on a mutually convenient date and time for the deposition with counsel for defendants, and must issue a Subpoena Duces Tecum or Request for Production of Documents to obtain documents. If plaintiffs believe they have not been provided with the information they are entitled to once the deposition has been completed and the document request has been responded to by defendant, they may bring that to the attention of the Court by following the Court's discovery dispute procedures and making an oral Motion to Compel. If any party makes a Motion to Compel and the Court finds the motion lacks merit, the Court will award costs and attorneys' fees to the prevailing party.
- It is ORDERED:** All discovery is STAYED except for the Rule 30(b)(6) deposition of the defendant and depositions of plaintiffs. **The Court sua sponte extends the discovery deadline to November 15, 2013** for the sole purpose of completing the depositions of plaintiffs and the defendant. If plaintiffs take no action or if they fail to complete the Rule 30(b)(6) deposition of by that date, discovery will be closed.
- It is ORDERED:** Plaintiffs' Motion to Compel Production of Documents from Defendant Bank of America (BOA) [#65] is DENIED WITHOUT PREJUDICE.
- It is ORDERED:** Non-Parties Lawrence E. Castle, Christopher T. Groen, Alison L. Berry, and Christa N. Kilk's Motion to Quash Pursuant to Fed. R. Civ. P. 45(c) [#67] is GRANTED.
- It is ORDERED:** Non-Parties Lawrence E. Castle, Christopher T. Groen, Alison L. Berry, and Christa N. Kilk's Motion for Protective Order Pursuant to Fed. R. Civ. P. 26(c) [#69] is GRANTED.
- It is ORDERED:** Plaintiffs' Response Pursuant to D.C. COLO.L CivR. 7.1(c) to Non-Parties' Motion to Quash and Motion for Contempt Pursuant to Fed.R.Civ.P. 45(e) [#75] is DENIED to the extent it purports to seek an order of Contempt. If the plaintiffs wish to pursue a Motion for Contempt, they must file a separate motion in accordance with the Local Rules **no later than October 4, 2013**. If a proper Motion for Contempt is filed, defendant or any non-moving party must respond

**within 7 days of its filing.**

**It is ORDERED:** Plaintiffs' Motion to Compel the Deposition of Defendant Bank of America, N.A. (BOA) [#76] is DENIED WITHOUT PREJUDICE.

**It is ORDERED:** Plaintiffs' Motion to Compel the Deposition of Mercedes Judilla and Motion for Sanctions Pursuant to Fed. R. Civ. P. 37(d) [#79] is DENIED.

**It is ORDERED:** Dispositive Motion Deadline is extended to **December 20, 2013.**

**It is ORDERED:** Defendant's Oral Motion to Compel the depositions of the plaintiffs is GRANTED. The plaintiffs must sit for their depositions on or before **November 15, 2013.** If they fail to coordinate a mutually convenient date and time, fail to appear, or otherwise fail to cooperate, the Court will recommend that the case be dismissed with prejudice. If disputes arise during the deposition, the parties shall call the Court for rulings. Counsel must wait until after the November 15, 2013 deadline to inform the Court of the plaintiffs' failure to comply, if any.

HEARING CONCLUDED.

**Court in recess: 10:00 a.m.**

Total time: 15 minutes