

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 13-cv-03392-RBJ-KLM

PHILLIP DAVID HASKETT,

Plaintiff,

v.

GARY WOODROW FLANDERS,

Defendant.

ORDER

ENTERED BY MAGISTRATE JUDGE KRISTEN L. MIX

This matter is before the Court on Plaintiff's **Rule 37 Motion to Compel Deposition** [#102]¹ (the "Motion"). On June 11, 2015, the Court ordered Defendant to sit for his deposition at a location of Plaintiff's choice within the City of Colorado Springs no later than July 13, 2015. *Order* [#93]. Plaintiff thereafter appropriately noticed the deposition for July 6, 2015 at 10:00 a.m. in a conference room at First Bank of Colorado Springs. *Second Notice of Deposition of Defendant* [#94]; *Motion* [#102] at 2. When Defendant arrived at the bank, he purportedly informed the branch manager that this case involved alleged threats by Plaintiff of murder and rape against Defendant. *Motion* [#102] at 2. With this new information about the conflict between Plaintiff and Defendant, the bank's branch manager asked that they not take the deposition there at the bank. *Deposition* [#102-1] at

¹ "[#102]" is an example of the convention the Court uses to identify the docket number assigned to a specific paper by the Court's case management and electronic case filing system (CM/ECF). This convention is used throughout this Order.

4. Plaintiff was able to find an immediately-available alternate location at the El Paso County Combined Courthouse, about six miles from the bank. *Motion* [#102] at 3. He informed Defendant of this change of venue and that the deposition would reconvene one hour later at 11:00 a.m. *Deposition* [#102-1] at 4-5. Defendant stated that he would only show up at the new time and place for his deposition if Plaintiff provided him with a proper deposition notice. *Id.* Plaintiff reconvened the deposition at the new location and went on the record to state that Defendant did not appear, despite waiting until approximately 11:30 a.m. *Id.* at 6-7. In the Motion, Plaintiff seeks to compel Defendant to sit for his deposition. *Motion* [#102] at 1. Plaintiff proposes to take the deposition at the Fourth Judicial District El Paso County Combined Courthouse on July 27, 2015. *Id.* at 5.

IT IS HEREBY **ORDERED** that the Motion [#102] is **GRANTED in part**, as follows.

IT IS FURTHER **ORDERED** that Defendant shall sit for his deposition with the Court presiding on July 27, 2015 at 10:00 a.m. at the Alfred A. Arraj United States Courthouse located at 901 19th Street, Denver, Colorado. The deposition shall take place in the undersigned's jury room, located on the Fourth Floor of the Alfred A. Arraj United States Courthouse.²

IT IS FURTHER **ORDERED** that Plaintiff shall arrange to have a court reporter present in order to record the deposition.

Any further attempt by Defendant to further delay or obstruct the taking of his deposition **will** result in the imposition of monetary sanctions and/or a recommendation that

² The parties shall inform Chambers of their arrival by using the buzzer/speaker system on the wall located to the right of the undersigned's courtroom.

default judgment be entered against him.

Dated: July 8, 2015

BY THE COURT:

A handwritten signature in black ink, appearing to read "Kristen L. Mix". The signature is written in a cursive, flowing style.

Kristen L. Mix
United States Magistrate Judge