

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

Civil Case No. 1:15-cv-00687-WJM-NYW

LEONA SHABAZZ,

Plaintiff,

v.

PINNACLE CREDIT SERVICES, LLC, a Minnesota limited liability company,

Defendant.

MINUTE ORDER

Entered By Magistrate Judge Nina Y. Wang

This matter is before the court on Plaintiff's Unopposed Motion to Shorten the Time Pursuant to D.C.COLO.L.Civ.R 45.1 to Serve Tonya Larkin to Appear for Her Deposition (the "Motion") [#38, filed Jan. 6, 2016]. This Magistrate Judge considers the Motion pursuant to the Order Referring Case dated April 7, 2015 [#8] and the memorandum dated January 7, 2016 [#39].

Plaintiff has scheduled the deposition of Tonya Larkin, a former employee of Northland Group, Inc. to take place on January 13, 2016 at 8:00 a.m. in Minneapolis, Minnesota. [#38 at 2]. Although counsel for Defendant initially waived service of process upon Ms. Larkin to appear at the deposition because she was an employee of Northland Group, Inc., Defendant's counsel informed Plaintiff's counsel late in the evening of January 5 that Ms. Larkin is no longer an employee of Northland Group, Inc. and Defendant's counsel is therefore no longer capable of waiving service of process. Accordingly, Plaintiff is outside of the seven-day window for service of a subpoena on Ms. Larkin prescribed by D.C.COLO.LCivR 45.1.

On January 6, 2016, the Parties participated in a conference call with the court in which this issue was discussed. Plaintiff's counsel represented that he would file the present motion. Plaintiff's counsel also represents that he conferred with Defendant's counsel, and Defendant's counsel does not oppose the Motion. [#38 at 1]. Defendant's counsel confirmed that Defendant had no objection on the record.

Although Ms. Larkin's deposition is set to take place in Minnesota, pursuant to Fed. R. Civ. P. 45(a)(2), the subpoena for her attendance must issue from this court because the case is pending here. Fed. R. Civ. P. 45 governing subpoenas does not specify the time for service of a

subpoena. However, Local Rule of Practice 45/1 states: "Except as provided in D.C.COLO.LCivR 30.1 or unless otherwise ordered by the court, a subpoena shall be served no later than seven days before the date specified in the subpoena. The seven-day period shall be calculated under Fed. R. Civ. P. 6(a)(1)." D.C.COLO.LCivR 45.1.

Plaintiff's counsel requests that the court enter an order permitting Plaintiff to serve Ms. Larkin with a subpoena to appear at her deposition at least 48 hours prior to the time scheduled for her deposition. Finding that good cause exists, the court grants Plaintiff's motion.

Accordingly, **IT IS ORDERED** that:

- (1) The Unopposed Motion to Shorten the Time Pursuant to D.C.COLO.LCiv.R 45.1 to Serve Tonya Larkin to Appear for Her Deposition is GRANTED; and
- (2) Plaintiff must serve Ms. Larkin with a subpoena for her attendance at the deposition at least 48 hours prior to the time scheduled for the deposition.

DATED: January 7, 2016