

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 09-61181-CIV-UNGARO/SIMONTON

DENISE VALBRUN, et al.,

Plaintiffs,

v.

TIMOTHY REARDON, et al.,

Defendants.

**ORDER ON PLAINTIFF'S SECOND MOTION FOR SANCTIONS AGAINST
DEFENDANT TIMOTHY REARDON FOR FAILURE TO APPEAR FOR DEPOSITION
AND TO COMPEL DEPOSITION OF DEFENDANT TIMOTHY REARDON**

Presently pending before the Court is Plaintiff's Second Motion For Sanctions Against Defendant Timothy Reardon For Failure To Appear For Deposition and To Compel Deposition of Defendant Timothy Reardon (DE # 26). This motion is referred to the undersigned Magistrate Judge for disposition (DE # 27).

On November 10, 2009, the District Court entered a Final Judgment against Defendant Reardon only, awarding judgment for Plaintiffs in the amount of \$212,385.60 (DE # 20).¹ In the instant motion, Plaintiffs contend that Defendant Reardon has not made any payments on the judgment (DE # 26 at 1).

On November 13, 2009, Plaintiffs noticed for December 14, 2009 a deposition in aid of execution of Defendant Reardon (Ex. 1 to DE # 23). Defendant Reardon did not appear for this deposition.

Plaintiffs then filed a motion asking this Court to compel Defendant Reardon's appearance at a deposition in aid of execution within the next thirty days and stating that

¹The case has been stayed as to Defendant W.B. Care Center, LLC, d/b/a West Broward Care Center, due to a suggestion of bankruptcy (DE ## 5, 21).

they would renote the deposition within the Court's allotted time frame. Plaintiffs also requested an award of all expenses incurred (DE # 23). On January 7, 2010, the undersigned entered an Order granting Plaintiff's motion to compel, and ordering Defendant Reardon to appear, on or before February 8, 2010, at a deposition in aid of execution as noticed by Plaintiffs. The motion for sanctions was denied without prejudice to renew if Reardon did not appear at that deposition (DE # 25).

On December 22, 2010, Plaintiff filed the instant motion, in which Plaintiffs again ask this Court to compel Defendant Reardon's appearance at a deposition in aid of execution within the next thirty days and state that, upon this Court's Order, they will renote the deposition within the Court's allotted time frame. Plaintiffs also again request an award of all expenses incurred. Plaintiffs claim that they have been unsuccessful in contacting Reardon in the months after Reardon did not appear at the deposition (DE # 26). The undersigned notes that although the motion refers to an attached exhibit, no such exhibit was attached.

Defendant Reardon has not responded to the instant motion, and the last day to timely file a response was January 10, 2011. However, the record does not indicate that Mr. Reardon ever received this Court's January 7, 2010 Order. In addition, the undersigned notes that there is no indication that Plaintiffs ever noticed Mr. Reardon for deposition after this Court's January 7, 2010 Order. Further, it is unclear whether Mr. Reardon's address as reflected on the docket sheet remains a good address, since a review of the summons returned in the case reflects that this address was a work address.

Therefore, it is hereby

ORDERED AND ADJUDGED that Defendant Timothy Reardon shall respond to

Plaintiff's Second Motion for Sanctions against Defendant Timothy Reardon (DE # 26) within thirty (30) days from the date of this Order. The Court will mail a copy of the Court's January 7, 2010 Order along with the instant Order to Mr. Reardon at the below address, return receipt requested. If Defendant Reardon fails to respond to the motion, the relief requested may be granted.

DONE AND ORDERED in chambers in Miami, Florida on February 1, 2011.



ANDREA M. SIMONTON
UNITED STATES MAGISTRATE JUDGE

Copies furnished via CM/ECF to:
The Honorable Ursula Ungaro,
United States District Judge
All counsel of record

Timothy Reardon
7751 W. Broward Boulevard
Plantation, FL 33317