

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

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

DENISE VALBRUN, et al.,

Plaintiffs,

TIMOTHY REARDON, et al.,

Defendants.

**ORDER GRANTING, IN PART, 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 February 1, 2011, the undersigned entered an Order directing Defendant Timothy Reardon to respond to Plaintiff's Second Motion for Sanctions (DE # 26) within thirty (30) days from the date of that Order.¹ In that Order, the Court noted that the record was unclear as to whether Mr. Reardon ever received this Court's January 7, 2010 Order related to Plaintiffs' First Motion to Compel, whether Plaintiffs ever re-noticed Mr. Reardon's deposition after the Court's January 7, 2010 Order, and whether the address as reflected on the docket remained a good address for Mr. Reardon, since a review of the summons returned in the case reflected that the address was a work address.

¹ That Order (DE # 29) set out the procedural history of this matter, and thus it is not set forth again in this Order.

Therefore, the Court mailed a copy of the February 1, 2011 Order and the Court's January 7, 2010 Order to Mr. Reardon at two different addresses, with return receipt requested.² Both mailings have since been returned to the Court as "undeliverable" and "unable to forward."³ One of the mailings also has the word "Refused" written on the envelope. Thus, at very least, Defendant has failed to keep the Court apprised of a valid mailing address for him.

In addition, on March 9, 2011, Plaintiffs filed a Notice of Defendant's Non-Compliance indicating that Defendant Reardon has not made any payments to Plaintiffs and has not contacted Plaintiffs' Counsel nor filed a Response to Plaintiffs' Second Motion for Sanctions (DE # 30). Further, as of the date of this Order, Defendant Reardon still has not responded to the Second Motion for Sanctions despite this Court's directing Defendant to do so within thirty days of the February 1, 2011 Order.

Accordingly, pursuant to Rule 7.1 (c) of the Local Rules for the Southern District of Florida, Plaintiffs' Motion is granted by default. However, because it is not clear whether Plaintiffs ever re-noticed Mr. Reardon's deposition as provided for in the Court's January 7, 2010 Order, Plaintiffs' request for sanctions in the form of expenses, is denied without prejudice at this time. However, if Mr. Reardon does not appear for a deposition re-noticed by Plaintiffs pursuant to this Order, Plaintiffs are entitled to have Mr. Reardon pay for all reasonable expenses incurred in relation to filing the Second Motion for Sanction and to Compel Deposition.

² On February 2, 2011, the Court mailed a copy of the Orders to Mr. Reardon at 7751 W. Broward Blvd., Plantation, FL 33317 and 2627 South Bayshore Drive, Miami, FL 33133.

³ Copies of the returned envelopes are attached to this Order.

Therefore, it is hereby

ORDERED AND ADJUDGED that 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) is **GRANTED**, in part, by Default. Defendant Timothy Reardon is hereby ordered to appear for a deposition in aid of execution to be properly noticed by Plaintiffs within thirty days from the date of this Order.

It is further

ORDERED AND ADJUDGED Plaintiff's request for sanctions is **DENIED**, without prejudice to renew if Mr. Reardon fails to appear at the re-noticed deposition.

DONE AND ORDERED in chambers in Miami, Florida on March 31, 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

Via U.S. Mail to:

Timothy Reardon
7751 W. Broward Boulevard
Plantation, FL 33317

Timothy Reardon
2627 South Bay Shore Drive, Suite 2506
Miami, FL 33133

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
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400 NORTH MIAMI AVENUE
MIAMI, FLORIDA 33128-7716

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REC'D by _____ D.C.
FEB 14 2011
STEVEN M. LARIMORE
CLERK U.S. DIST. CT.
S. D. of FLA. - MIAMI

UNYALLO

*Refused
NS*

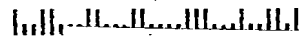
PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT
OF THE RETURN ADDRESS, FOLD AT DOTTED LINE
CERTIFIED MAIL™



7009 3410 0001 742

USPS INSPECTED
By _____

Timothy Reardon
7751 W Broward Blvd
Plantation, FL 33317



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RETURN TO SENDER
UNCLAIMED
UNABLE TO FORWARD

BC: 33128771699 *1497-05225-10-33

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UNITED STATES POSTAGE
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UNITED STATES DISTRICT COURT

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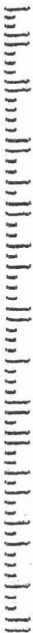
S. Larimore

Timothy Reardon
2627 South Bayshore Drive
Miami FL, 33133

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NOT DELIVERABLE AS ADDRESSED
UNABLE TO FORWARD

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