

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

BOBBY and SHARON MARSHALL,

Plaintiffs,

Case No. 16-cv-14184
Hon. Matthew F. Leitman

v.

ALLSTATE INSURANCE COMPANY,

Defendant.

**ORDER (1) GRANTING DEFENDANT'S MOTIONS FOR ORDERS TO
SHOW CAUSE (ECF ## 10, 11) AND (2) ORDERING PERSONAL
APPEARANCE OF MARY MOSES AND SHARE MOSES TO SHOW
CAUSE WHY THEY SHOULD NOT BE HELD
IN CONTEMPT OF COURT**

In this action, Plaintiffs Bobby and Sharon Marshall challenge Defendant Allstate Insurance Company's denial of an insurance claim they filed. (*See* Compl., ECF #1-1.) The Marshalls' claim relates to a water loss that occurred at their premises located at 9269 Pinehurst, Detroit, Michigan, on or about January 24, 2016. Third-party Mary Moses was a tenant at the Pinehurst premises at the time of the loss. Her granddaughter, Share Moses, has been identified "as the individual who discovered the loss." (ECF #11 at Pg. ID 121.)

The parties are now engaged in discovery. On July 29, 2017, a process server for Allstate personally served Mary Moses with (1) a Notice of Taking Deposition and Subpoena, (2) a check in the amount of the witness fee required under the

Federal Rules of Civil Procedure, and (3) an enclosure letter. (*See* ECF ## 10-1 – 10-5.) The enclosure letter explained to Mary Moses that the subpoena “compel[ed] [her] attendance” at a deposition on August 17, 2017, at 11:00 a.m. (ECF #10-4 at Pg. ID 105.) After she was served with the subpoena, Mary Moses cashed the witness fee check. (*See* ECF #10-5.)

A process server also personally served Share Moses with a subpoena for her deposition and a check for the applicable witness fee. (*See* ECF ## 11-2 – 11-5.) Despite cashing the witness fee check (*see* ECF #11-5), Share Moses cancelled her originally scheduled deposition date and has not appeared at three rescheduled deposition dates. (*See* ECF #11 at Pg. ID 122.)

On August 17, 2017, at 11:00 a.m., counsel for all parties appeared for Mary Moses’ scheduled deposition. Mary Moses, however, did not appear as required. (*See* Deposition Transcript, ECF #10-6.) At 11:33 a.m., with Mary Moses having still not appeared, counsel for Allstate concluded the deposition and stated on the record that she would pursue a motion compelling Mary Moses’ attendance at a continued deposition. (*See id.* at Pg. ID 111.)

On August 22, 2017, Allstate filed a motion for an order to show cause with respect to Mary Moses. (*See* ECF #10.) On August 23, 2017, Allstate filed a similar motion with respect to Share Moses. (*See* ECF #11.) In the motions, Allstate asks the Court to enter an order “directing Mary Moses [and Share Moses] to show cause

why [they] should not be held in contempt of court for failing to appear for [their] Deposition[s].” (ECF #10 at Pg. ID 86-87; ECF #11 at Pg. ID 123.) Counsel for the Marshalls do not oppose the entry of such an order. (See ECF #10 at Pg. ID 87; ECF #11 at Pg. ID 115.)

Accordingly, **IT IS HEREBY ORDERED** that Mary Moses and Share Moses shall both **personally appear** before the Court on **Tuesday, September 26, 2017 at 1:00 p.m.** and **SHOW CAUSE** why they should not be held in contempt of court for failing to appear their scheduled depositions. This hearing will be held in Courtroom 226 of the United States District Court, Theodore Levin U.S. Courthouse, 231 W. Lafayette, Detroit, Michigan.

IT IS FURTHER ORDERED that counsel for Allstate shall serve a copy of this Order on Mary Moses and Share Moses by First Class Mail by no later than August 28, 2017. Counsel for Allstate shall also e-file a Certificate of Service with this Court by no later than August 28, 2017, certifying that she has served Mary Moses and Share Moses with a copy of this Order.

IT IS SO ORDERED.

s/Matthew F. Leitman

MATTHEW F. LEITMAN

UNITED STATES DISTRICT JUDGE

Dated: August 25, 2017

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on August 25, 2017, by electronic means and/or ordinary mail.

s/Holly A. Monda_____

Case Manager

(810) 341-9764