

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION**

LASHON FRY AND MARSHA BAYNES,

VS.

No 4:08CV150 -P-S

**ALFRED LOVE AND
SOUTHEASTERN BULK BAG
CONNECTION, INC.**

ORDER

This matter is before the court on motion of the plaintiffs to compel the deposition and for sanctions against Defendant Alfred Love (# 41). The defendant has not filed a response to the motion. With their motion, the plaintiff's provide that:

1. Counsel for the parties agreed to conduct depositions in this matter on July 23, 2009.
2. Defendant Alfred Love's deposition was scheduled and noticed for July 28, 2009, at 9:00 a.m.
3. Defendant Alfred Love was served with a subpoena to appear for his deposition that was scheduled for July 28, 2009, at 9:00 a.m.
4. A check, subsequently cashed by defendant Love, was drawn on Pittman Law Office's general account for \$42.00 and was served with the subpoena at a cost of \$35.00.
5. All parties (except Love) and counsel were present on the morning of July 28, 2009 at 9:00 a.m.
6. Defendant Alfred Love did not seek a continuance or file a motion to quash the deposition notice or subpoena.

IT IS, THEREFORE, ORDERED that the defendant's motion to compel is **GRANTED**.

The defendant is hereby ordered to make himself available for deposition as a party to this case at

a time convenient to all other parties.

IT IS FURTHER ORDERED that pursuant to Rule 37(b)(2)(C), the defendant will pay to the plaintiff the reasonable expenses – including attorney’s fees – caused by his failure to comply with an order of the court and his failure to make himself available at the July 28, 2009 deposition. The plaintiff will provide to the court a detailed explanation of the costs, expenses, and fees incurred as a result of filing the present motion.

SO ORDERED this 28th day of September 2009.

/s/David A. Sanders
U.S. MAGISTRATE JUDGE