

**Matthew D. Hardin (*pro hac vice*)**  
**HARDIN LAW OFFICE**  
101 Rainbow Drive #11506  
Livingston, TX 77399  
Email: MatthewDHardin@gmail.com  
*Attorney for Defendants*

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THE UNITED STATES DISTRICT COURT  
DISTRICT OF UTAH

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RUSSELL GREER,

Plaintiff,

v.

JOSHUA MOON, *et al.*

Defendant.

***RENEWED MOTION TO EXCLUDE  
UNDISCLOSED EVIDENCE AND  
WITNESSES UNDER FED. R. CIV.  
P. 37 (c), AND MOTION TO  
IMPOSE “CASE-ENDING  
SANCTIONS” PER ECF NO. 189.***

[Case No. 2:24-cv-00421-DBB](#)

District Judge David Barlow  
Magistrate Judge Jared C. Bennett

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NOW COME the Defendants, by and through undersigned counsel and pursuant to Fed. R. Civ. P. 37 (c), as well as this Court’s order at ECF No. 189, and renew their Motion that this Court enter an order denying Mr. Greer the opportunity to call any witness or introduce any evidence, at any stage in this case, to the extent the witness or evidence has not been disclosed to Defendants. Defendants also seek the “case-ending sanctions” that the Court contemplated in the order at ECF No. 189, and an award of their attorney’s fees and costs for the reasons set forth herein. Defendants additionally request leave to submit an accounting of such fees and costs once briefing on the issue of entitlement has been resolved.

**I. Introduction**

Mr. Greer has refused on at least three separate occasions to properly disclose

any witnesses to the Defense. ECF No. 127-1 (“There are witnesses who have witnessed the intentional copyright infringement by Kiwi Farms...” but not listing such witnesses), *cf.* 185-1 (same), 194-1 (listing two witnesses – Mr. Greer’s father and brother – but not their address or what the subject of their anticipated testimony or knowledge might be).<sup>1</sup> Mr. Greer has not disclosed his own anticipated testimony or the extent of his own claimed knowledge. Mr. Greer previously told the U.S. District Court for the Northern District of Florida that there was a vital, Utah-based witness named Scott Taylor who was necessary for trial, ECF No. 123 at 15, but Mr. Taylor appears nowhere in Mr. Greer’s initial disclosures.

Because of Mr. Greer’s serial refusals to provide compliant Rule 26 (a) disclosures, the defense cannot locate the supposedly vital witness Steve Taylor at all, despite that Mr. Taylor’s testimony was among the reasons Mr. Greer sought for this case to be retransferred from Florida back to Utah. ECF No. 123 at 15. Undersigned counsel has reserved a room to conduct Mr. Taylor’s deposition in Salt Lake City on March 6-7, but cannot serve Mr. Taylor a subpoena and has no idea what topics Mr. Taylor might testify to. Similarly, because Mr. Greer refused to disclose the address and the subject of testimony by Nathan and Scott Greer (Mr. Greer’s brother and father, respectively), undersigned counsel had to conduct his own investigation to ascertain

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<sup>1</sup> Plaintiff appears to be playing games with the timing of his disclosures and the nature of his disclosures in order to impede justice in this case. The “disclosure” of two witnesses (Scott and Nathan Greer) by name only, without any accompanying information, was made after this Court’s deadline imposed at ECF No. 189. Mr. Greer believes his tardiness does not prejudice the Defendants, ECF No. 195, but he has corrected none of the substantive problems with his “disclosure” and appears to have intentionally “run out the clock” so that Defendants cannot conduct effective discovery.

their addresses.<sup>2</sup>

Mr. Nathan Greer spoke to undersigned counsel yesterday and was very gracious to accept service of a deposition subpoena via email, but indicated in his telephone call that he only knew about this case on the “periphery” and likely has no subject matter knowledge. Mr. Scott Greer has not returned undersigned counsel’s telephone calls at all, and therefore undersigned counsel has no idea what Mr. Scott Greer might or might not testify to. Absent a proper disclosure from the Plaintiff, it appears there is no way to know what Scott Greer’s testimony might be other than for defense counsel to go through the expense of traveling to Wyoming to depose him in person.<sup>3</sup> Undersigned counsel was eventually able to obtain Scott Greer’s physical address for purposes of serving a subpoena, but counsel did not obtain that address from the Plaintiff. Instead, it was obtained through undersigned counsel’s own investigation and conversation with Nathan Greer.

Plaintiff Russell Greer has also stated that he has no documents that are relevant to this case and its sole cause of action for contributory copyright infringement on at least three occasions. ECF No. 127-1 (“not any documents in Plaintiff’s possession”), Exhibit 185-1 (same), ECF No 185-2 (“I clearly said in the documents, there is nothing

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<sup>2</sup> Undersigned counsel’s investigation has revealed that Nathan Greer lives in Texas and Scott Greer lives in Wyoming. This undercuts Plaintiff’s earlier arguments that he had Utah-based witnesses and that Utah would be the most convenient location for trial in this matter. A grand total of zero Utah-based witnesses have been disclosed by Mr. Greer, and Defendants also expect to call no Utah-based witnesses.

<sup>3</sup> Plaintiff has previously indicated to this Court at, *e.g.*, ECF No. 123, that his father is elderly and suffers from Parkinson’s disease. Undersigned counsel does not wish to depose an elderly and ill witness during the Wyoming winter unless there is no alternative, but the Plaintiff appears to be leaving Defendants no choice but to do so.

relevant at this time,” and adding that the documents in Mr. Greer’s possession have “nothing to do with copyright infringement.”). Plaintiff has never, at any point, supplemented his disclosures to provide a listing of any documents or copies of any documents.

Because Mr. Greer has failed to properly disclose any witnesses or evidence, even after this Court’s order at ECF No. 189, and even after multiple attempts to confer with Mr. Greer as to his failures, the Defendants are severely prejudiced in their efforts to conduct discovery and have spent thousands of dollars to fruitlessly confer with the recalcitrant Plaintiff and to conduct their own investigation so that the discovery process can begin. Plaintiff should be excluded from presenting any testimony or documentary evidence in this case, and this Court should impose the “case-ending sanctions” it previously warned Mr. Greer would follow.

## **II. Rule**

Pursuant to Fed. R. Civ. P. 37 (c), “If a party fails to provide information or identify a witness as required by Rule 37 (a) or (e), the party is not allowed to use that information or witness to supply evidence on a motion, at a hearing, or at a trial.” This form of relief is mandatory unless the Court makes a specific finding that the failure to disclose “was substantially justified or is harmless.” *Vesom v. Atchison Hosp. Ass’n*, 279 Fed. Appx. 624, 631 (10th Cir. 2008) (explaining that exclusion of evidence “is ‘automatic and mandatory’ unless the violation was either justified or harmless”).

A district court has discretion to decide whether a Rule 26 violation is justified or harmless and, when doing so, should consider the following factors: “(1) the prejudice or surprise to the party against whom the testimony is offered; (2) the ability of the party to

cure the prejudice; (3) the extent to which introducing such testimony would disrupt the trial; and (4) the moving party's bad faith or willfulness." *Jacobsen v. Deseret Book Co.*, 287 F.3d 936, 953 (10th Cir. 2002); *Woodworker's Supply, Inc. v. Principal Mut. Life Ins. Co.*, 170 F.3d 985, 993 (10th Cir. 1999).

This Court has the power to sanction Mr. Greer or provide other relief pursuant to this Court's own order at ECF No. 189 at 3, fn. 7, citing Fed. R. Civ. P. 37 (b)(2).

### **III. Facts**

Mr. Greer provided what he called "initial disclosures" for the first time while this case was pending in Florida. ECF No. 127-1. These disclosures were facially deficient as pointed out by Defendants at ECF No. 127, but at that time there was no order requiring initial disclosures to be made and therefore no relief was available to Defendants. After the hearing in this matter on November 18, 2024, when this Court finally imposed an order requiring initial disclosures to be made, Defendants sent a "prompt written communication" to Mr. Greer pursuant to DUCivR 37-1 (a)(2). ECF No. 185-3. That communication invited Mr. Greer to amend or supplement his disclosures prior to November 2, 2024, or alternatively to meet and confer with undersigned counsel via zoom on one of three specified dates. *Id.* Undersigned counsel thereafter repeatedly invited Mr. Greer to meet and confer, including but not limited to via follow up emails on November 19 (ECF No. 185-4), November 21 (ECF No. 185-5), November 26 (ECF No. 185-6 and 185-7), November 29 (ECF No. 185-8), and December 3 (ECF No. 185-9 and 185-10). Mr. Greer eventually provided "new" initial disclosures on December 3, 2024, but those initial disclosures were a verbatim match for his original initial disclosures, and continued Mr. Greer's pattern of refusing to disclose any witnesses or any evidence.

This Court ordered Mr. Greer to correct the deficiencies of his Rule 26 disclosures not later than December 16, 2024, and expressly noted that the failure to comply would subject Mr. Greer to the imposition of “case-ending sanctions.” ECF No. 189 at 3. The Court also ordered Mr. Greer to show cause why he should not be required to pay Defendants’ attorney’s fees which were necessary to obtain an order compelling the Plaintiff to comply with Rule 26. *Id.* at 4.

The Plaintiff has not cured his willful and recalcitrant refusal to comply with Rule 26 in the time since this Court ordered him to do so at ECF No. 189. Instead, Mr. Greer waited until the deadline had elapsed, and only after Defendants had notified the Court that the deadline had elapsed at ECF No. 193, to send undersigned counsel an email which contained only the names of two family members and their phone numbers. ECF No. 194-1. Mr. Greer did not provide addresses for such witnesses, and did not provide the anticipated subject of their testimony. The Plaintiff’s December 17, 2024 list of witnesses conflicts with Mr. Greer’s earlier specific representations to this Court that a Steve Taylor of Utah would testify at trial in this matter. ECF No. 123 at 15. Mr. Greer has repeatedly refused to confer with undersigned counsel about the deficiencies of his belated “disclosures” as evidenced by the numerous items of email correspondence which are attached to this motion.

#### **IV. Argument**

This Court must impose the “automatic and mandatory” exclusion of evidence that the Tenth Circuit and Fed. R. Civ. P. 37 require. *Vesom v. Atchison Hosp. Ass’n*, 279 Fed. Appx. 624, 631 (10th Cir. 2008) (explaining that exclusion of evidence that is presented in violation of Rule 37(c) “is ‘automatic and mandatory’ unless the violation

was either justified or harmless"). The factors the Court previously held did not justify exclusion of evidence, ECF No. 189, now tip in the opposite direction.

Specifically, as to the first *Woodworker's* factor, this Court previously held that there was prejudice to Defendants due to Mr. Greer's behavior. ECF No. 189 at 3 (Mr. Greer "has impermissibly caused delay in court-ordered discovery..."). At that time, the Court held that the prejudice was not the "kind of prejudice" that warranted exclusion as a remedy. *Id.* But Mr. Greer's continued behavior since this Court's order at ECF No. 189 has amplified Defendants' prejudice, and makes clear that exclusion is the only remedy that will suffice due to the Plaintiff's refusal to accept the ordinary rules of court and to comply with them. As described above, Defendants have had to spend thousands of dollars conducting their own investigation into the location of Nathan and Scott Greer, and will now have to subpoena such witnesses in the absence of even the most basic idea of what their testimony might be or how it is relevant to this copyright case.

Defendants have reserved a room in which to depose Steve Taylor, a trial witness the Plaintiff previously identified as vital to his case, ECF No. 123 at 15, but Mr. Taylor has not been disclosed at all, in any form. Defense counsel has been forced to block off his calendar for three days to travel to Salt Lake City and conduct a deposition for a witness that appears to be a figment of Mr. Greer's imagination. Discovery is not merely "delayed" by the Plaintiff's behavior; discovery is actively hampered and even prevented in large measure, as costs continue to escalate.

Addressing the second *Woodworker's* factor, this Court previously found that Mr. Greer could "cure" the prejudice by complying with this Court's order at ECF No. 189. But Mr. Greer has not "cured" any prejudice because he has not complied with this

Court's order. Instead, he has played continued games of delay, refusing to provide any disclosures at all until after the Defendants notified the Court that the deadline had elapsed, and even then providing perfunctory and wholly inadequate disclosures. What's more, Mr. Greer has failed repeatedly to meet and confer with the Defendants as required by DUCivR 37-1, such that Defendants costs continue to escalate.

As to the third *Woodworker's* factor, the Court previously found that because there is no trial scheduled in this matter, Mr. Greer's failure to disclose evidence could not possibly disrupt a trial. ECF No. 189 at 3. While this Court is correct to say that no trial is scheduled in this matter, Mr. Greer's behavior is such that no trial can ever be scheduled in this matter. This case cannot even become ripe for dispositive motions until discovery is complete, much less ripe for trial. And discovery cannot be complete when Mr. Greer refuses to let it even begin, by providing basic initial disclosures to the defense.

As to the fourth *Woodworker's* factor, this Court previously found that Mr. Greer's behavior was willful and recalcitrant. ECF No. 189 at 3-4. This Court was correct, and Defendants respectfully submit that Mr. Greer's willful and recalcitrant behavior has only continued and amplified in the days since this Court made that finding. Evidence of Mr. Greer's willfulness is also attached hereto in the form of exhibits, which demonstrate that undersigned counsel has repeatedly written to Mr. Greer to invite him to supplement his disclosures and to meet and confer to address the instant motion. Mr. Greer has refused even to comply with DUCivR 37-1's meet and confer requirement, much less to redress Defendants grievances. This indicates that Mr. Greer is not a victim of circumstances, but has intentionally chosen to flout the rules.



**V. Conclusion**

This Court must make clear that it will exclude any undisclosed witness or evidence from being presented at trial or in support of any motion. It should also impose the “case-ending sanctions” of which it warned Mr. Greer at ECF No. 189 at 3.

DATED December 19, 2024

**HARDIN LAW OFFICE**

/s/ Matthew D. Hardin

**Matthew D. Hardin**

Attorney for Defendants

**From:** Matthew Hardin matthewdhardin@gmail.com  
**Subject:** Re: Witnesses  
**Date:** December 17, 2024 at 8:05 AM  
**To:** Russell Greer RussMark@gmail.com

MH

Good morning,

This is yet another prompt written communication pursuant to DUCivR 37-1. For purposes of this email I will assume, **without waiving any of our rights to bring a motion for sanctions**, that your email below constitutes an attempt to provide "updated" initial disclosures as required by the Court on December 9, 2024, and that you are not simply continuing a pattern of playing games to waste Defendants' resources and thwart the purposes of Fed. R. Civ. P. 26.

It appears that your "updated" initial disclosures sent (late) on December 17, 2024 are deficient for most of the same reasons as your earlier initial disclosures. You have not remedied any of the issues I identified in my emails dated November 18, 2024 or November 19, 2024, except that you have provided the bare identity (without accompanying information) for two individuals. Nor have you indicated you wish to engage in a meet and confer.

Your new "initial disclosures" are deficient for substantially the same reasons I explained before, including but not limited to:

1) You have failed to provide "the name and, if known, **the address and telephone number of each individual likely to have discoverable information—along with the subjects of that information**—that the disclosing party may use to support its claims or defenses..." Instead, you have merely stated that Nathan and Scott Greer are witnesses, without providing any address at which they can be served with appropriate legal process and without providing the subject of their expected testimony or knowledge. This is impermissible pursuant to Fed. R. Civ. P. 26 (a)(1)(A)(i).

2) You have continued in your earlier failure to provide "a copy—or a description by category and location—of all documents, electronically stored information, and tangible things that the disclosing party has in its possession, custody, or control and may use to support its claims or defenses." Instead, for the third time time, you have failed to provide any documents or a list of such documents. You must provide this information as specifically enumerated in Rule 26.

3) You have continued in your earlier failure to provide "materials bearing on the nature and extent of injuries suffered." I therefore cannot ascertain the basis for your computation of damages. You must provide this information as specifically enumerated in Rule 26.

You have failed to comply with Rule 26 and any of the requirements it imposes, except perhaps for the bare computation of damages in your first attempt at making initial disclosures and the bare identification of two witnesses by name only in an email filed only after Defendants' informed the Court that you remained out of compliance with your disclosure obligations, which email is itself unaccompanied by the necessary supporting materials and provides no information at all on the topics of each witnesses's knowledge. **I therefore request, without waiving any of our rights, to meet and confer pursuant to DUCivR 37-1 (a)(2)(B).** Such a meet and confer could take place via Zoom on 12/17/2024 at Noon, or alternatively on 12/18/2024 at Noon, or alternatively on 12/19/2024 at Noon. **If we are unable to resolve our differences, I will file a motion pursuant to DUCivR 37-1 (b) to compel you to supplement your initial disclosures, or for appropriate sanctions as a result of failure to make proper initial disclosures in full compliance with Rule 26, including but not limited to my attorney's fees (which continue to escalate) and an order seeking to exclude undisclosed testimony and evidence.** As I have noted in previous correspondence to you, we are prejudiced with each passing day that we do not receive valid initial disclosures, because we cannot move forward with our full panoply of discovery in the absence of the required initial information from you. Moreover, you appear to have continued in your pattern of wasting time since I first notified you of these deficiencies (and even more time since the Court notified you of the deficiencies), and you have either have not bothered to read the relevant rule (Fed. R. Civ. P. 26 (a) (1)) or have persistently refused to follow it after numerous efforts to bring you into compliance. If there was ever any confusion on what proper Initial Disclosures look like and what sort of information they contain, you could simply have referred to the Initial Disclosures which Defendants provided on December 2, 2024.

Merry Christmas,

**Matthew D. Hardin**  
**Hardin Law Office**  
 Direct Dial: 202-802-1948  
 NYC Office: 212-680-4938  
 Email: MatthewDHardin@protonmail.com

On Dec 17, 2024, at 5:23 AM, Russell Greer <RussMark@gmail.com> wrote:

I apologize for being 2 hours late with disclosing the witnesses. L

I am making this very clear: the reason for the initial non-disclosure is because your client and his users stalk me. If you may recall, a person a month ago was pretending to be you and sent me unsolicited porn emails.

However. Complying with the court's order, the witnesses are:

1. Nathan Greer. +1 (801) 310-2142
2. Scott Greer . (801) 301-1290



**From:** Matthew Hardin matthewdhardin@gmail.com  
**Subject:** Re: Witnesses  
**Date:** December 17, 2024 at 8:44 AM  
**To:** Russell Greer russmark@gmail.com

MH

Which paragraph of the protective order did I violate? Perhaps we can add this to the list of topics to discuss at our mandatory meet and confer per DUCivR 37-1.

Merry Christmas,

**Matthew D. Hardin**  
Hardin Law Office  
Direct Dial: 202-802-1948  
NYC Office: 212-680-4938  
Email: MatthewDHardin@protonmail.com

On Dec 17, 2024, at 8:41 AM, Russell Greer <russmark@gmail.com> wrote:

You didn't even attempt to redact the names in that exhibit of yours. So yes I am replying to the courts show cause order and letting him know you violated the protective order.

Sent from my iPhone

On Dec 17, 2024, at 5:35 AM, Russell Greer <russellgreer27@icloud.com> wrote:

Mr. Hardin.

Stop with your frivolous notices, sir. You didn't even allow me to reply before you filed that notice.

Further, you just violated the protective order by publishing the names of the witnesses I told you and the court I didn't want published.

I am a pro se litigant doing my best trying to understand this. I am not being willful with anything. You are very pushy and jump to conclusions if I don't reply.

I was trying to provide everything to you the best that I can.

This isn't my full time job. So just simmer down, sir! I'm trying to get everything to you.

Rule 26(a) only says i have to give you the names and *if known*, the addresses.

I do not know Nathan's address.

The question of relevancy comes to Scott's address.

They're going to ask me the same thing and so I was trying to provide everything.

But you just did the thing I was hesitant about: publishing the witness contact info in your exhibits.

You sir are out of line

<image0.png>

Sent from my iPhone

Russell Greer  
CEO of ID LLC/Paralyzed Face Productions/CART U

**NV Bus. License #NV20222557279**

www.russellgreer.com

IMDB Profile: [https://www.imdb.com/name/nm10428966/?ref=ext\\_shr\\_lnk](https://www.imdb.com/name/nm10428966/?ref=ext_shr_lnk)

Sent from my iPhone

On Dec 17, 2024, at 5:05 AM, Matthew Hardin <matthewdhardin@gmail.com> wrote:

Good morning,

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Your new "initial disclosures" are deficient for substantially the same reasons I explained before, including but not limited to:

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2) You have continued in your earlier failure to provide "a copy—or a description by category and location—of all documents, electronically stored information, and tangible things that the disclosing party has in its possession, custody, or control and may use to support its claims or defenses." Instead, for the third time time, you have failed to provide any documents or a list of such documents. You must provide this information as specifically enumerated in Rule 26.

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You have failed to comply with Rule 26 and any of the requirements it imposes, except perhaps for the bare computation of damages in your first attempt at making initial disclosures and the bare identification of two witnesses by name only in an email filed only after Defendants' informed the Court that you remained out of compliance with your disclosure obligations, which email is itself unaccompanied by the necessary supporting materials and provides no information at all on the topics of each witnesses's knowledge. **I therefore request, without waiving any of our rights, to meet and confer pursuant to DUCivR 37-1 (a) (2)(B).** Such a meet and confer could take place via Zoom on 12/17/2024 at Noon, or alternatively on 12/18/2024 at Noon, or alternatively on 12/19/2024 at Noon. **If we are unable to resolve our differences, I will file a motion pursuant to DUCivR 37-1 (b) to compel you to supplement your initial disclosures, or for appropriate sanctions as a result of failure to make proper initial disclosures in full compliance with Rule 26, including but not limited to my attorney's fees (which continue to escalate) and an order seeking to exclude undisclosed testimony and evidence.**

As I have noted in previous correspondence to you, we are prejudiced with each passing day that we do not receive valid initial disclosures, because we cannot move forward with our full panoply of discovery in the absence of the required initial information from you. Moreover, you appear to have continued in your pattern of wasting time since I first notified you of these deficiencies (and even more time since the Court notified you of the deficiencies), and you have either have not bothered to read the relevant rule (Fed. R. Civ. P. 26 (a) (1)) or have persistently refused to follow it after numerous efforts to bring you into compliance. If there was ever any confusion on what proper Initial Disclosures look like and what sort of information they contain, you could simply have referred to the Initial Disclosures which Defendants provided on December 2, 2024.

Merry Christmas,

**Matthew D. Hardin**

Hardin Law Office

Direct Dial: 202-802-1948

NYC Office: 212-680-4938

Email: MatthewDHardin@protonmail.com

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I apologize for being 2 hours late with disclosing the witnesses. L

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However. Complying with the court's order, the witnesses are:

1. Nathan Greer. +1 (801) 310-2142
2. Scott Greer . (801) 301-1290



**From:** Matthew Hardin matthewdhardin@gmail.com  
**Subject:** Re: Activity in Case 2:24-cv-00421-DBB-JCB Greer v. Moon et al Reply Brief  
**Date:** December 17, 2024 at 11:00 AM  
**To:** Russell Greer russmark@gmail.com  
**Bcc:** Joshua Moon jcmoon@pm.me

Mr. Greer,

I write pursuant to Rule 11 (b)(3) with reference to the below document you filed at ECF No. 195. As the rule provides, your signature on a document serves as a certification to the Court that "the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery..."

In this filing, you stated: "*Hardin is actively involved with the Kiwi Farms site. He's not a simple third party representing Moon as an attorney. He is a self-described "defender of the Farms".*" I write pursuant to the Rule to either ask that you withdraw these statements, or alternatively identify any evidentiary basis you have for making these assertions. Specifically, please identify what you mean by stating that I am "actively involved" with the Kiwi Farms site or am acting in any capacity other than as an attorney. Additionally, please identify any citation or source you relied upon to say that I have described myself as a "defender of the farms."

**Failure to identify the evidentiary basis for these assertions will likely result in a Motion for Sanctions pursuant to Rule 11 (c). Additionally, I still have not heard from you regarding whether you intend to meet and confer with me at noon. It is presently 11 a.m., so please let me know as soon as possible.**

Merry Christmas,

**Matthew D. Hardin**  
**Hardin Law Office**  
 Direct Dial: 202-802-1948  
 NYC Office: 212-680-4938  
 Email: MatthewDHardin@protonmail.com

On Dec 17, 2024, at 10:30 AM, <utd\_enotice@utd.uscourts.gov> <utd\_enotice@utd.uscourts.gov> wrote:

**This is an automatic e-mail message generated by the CM/ECF system. If you need assistance, call the Help Desk at (801)524-6100.**

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District of Utah

## Notice of Electronic Filing

The following transaction was entered on 12/17/2024 at 8:30 AM MST and filed on 12/17/2024

**Case Name:** Greer v. Moon et al  
**Case Number:** [2:24-cv-00421-DBB-JCB](#)  
**Filer:** Russell G. Greer  
**Document Number:** [195](#)

Docket Text:

**Plaintiffs REPLY to [193] Notice filed by Plaintiff Russell G. Greer. (kpf)**

2:24-cv-00421-DBB-JCB Notice has been electronically mailed to:

Matthew D. Hardin matthewdhardin@gmail.com, matthewdhardin@ecf.courtdrive.com, matthewdhardin@protonmail.com

Russell G. Greer russmark@gmail.com

2:24-cv-00421-DBB-JCB Notice has been delivered by other means to:

The following document(s) are associated with this transaction:

**Document description:**Main Document

**Original filename:**n/a

**Electronic document Stamp:**

[STAMP deecfStamp\_ID=1060034973 [Date=12/17/2024] [FileNumber=5999561-0] [62f45e068ecfc6e8ba324224b46db0f76ad6bd0718c41fed75e622abee873735f4440a95da267bf6b69a8ca416b3568e0e0814c328aa52ae0cba909e97f08047]]





**From:** Matthew Hardin matthewdhardin@gmail.com  
**Subject:** Re:  
**Date:** December 18, 2024 at 8:20 PM  
**To:** Russell Greer RussMark@gmail.com

MH

Good evening, Mr. Greer,

Thank you for confirming that you still receive emails at this address, including the subpoenas served upon you and Nathan Greer. I'm still waiting to hear from you on the mandatory DUCivR 37-1 conference, and tomorrow at noon is still available. Do you intend to participate?

As a trained paralegal, you understand that the job of an attorney is to zealously represent his client, not his client's opponent. In this case, my clients are Joshua Moon and Lolcow, LLC. My clients do not wish to settle with you. They do wish to recover their expenses from you, both under DUCivR 37-1 and in the form of sanctions, such that you will likely be paying for the depositions, subpoenas, and other discovery methods yourself unless you work with me to remedy the needless expenses you have caused to accrue. You're familiar with how sanctions work as well, not only due to your training and experience as a paralegal, but also because you have already been forced to pay sanctions awarded to Greg Skordas for very similar behavior.

Merry Christmas.

**Matthew D. Hardin**  
**Hardin Law Office**  
Direct Dial: 202-802-1948  
NYC Office: 212-680-4938  
Email: MatthewDHardin@protonmail.com

\*\*\*The information contained in this message may be privileged. It is intended by the sender to be confidential. If you suspect you may not be the intended recipient, please notify the sender and delete all copies.\*\*\*

On Dec 18, 2024, at 8:14 PM, Russell Greer <RussMark@gmail.com> wrote:

This is also what I'm talking about.

Moon's weird users contact me and they are actively monitoring the case.

And so Whatever. I'm just tired of dealing with your client and if you were a true neutral third party, you would be working with me to settle this, instead of investing money in subpoenas and depositions.

Sent from my iPhone

Begin forwarded message:

**From:** Russell Greer Fan Club <russellgreerofficial@gmail.com>  
**Date:** December 18, 2024 at 5:09:57 PM PST  
**To:** Russell Greer <russmark@gmail.com>

Russell,

In your latest legal filing you claimed "I'm 7." Between you and me, it is fairly obvious that you are not 7, so naturally I was fascinated by this legal maneuver. Is this part of a new legal strategy? Or do you have some other reason for claiming that you're 7? I am not a trained legal professional, so naturally I have trouble understanding these things.

I promise to keep our communications confidential.

Yours truly,

The President of the Russell Greer Fan Club



**Matthew D. Hardin (*pro hac vice*)**  
**HARDIN LAW OFFICE**  
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Email: MatthewDHardin@gmail.com  
*Attorney for Defendants*

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THE UNITED STATES DISTRICT COURT  
DISTRICT OF UTAH

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RUSSELL GREER,

Plaintiff,

v.

JOSHUA MOON, *et al.*

Defendant.

**DECLARATION OF MATTHEW  
HARDIN**

Case No. 2:24-cv-00421-DBB

District Judge David Barlow  
Magistrate Judge Jared C. Bennett

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I, Matthew Hardin, declare as follows:

1. I am over the age of 18 and competent to testify to the matters set forth herein.
2. I represent the Defendants in this matter.
3. The purpose of this Declaration is to explain my inability to comply with DUCivR 37-1 in this case. This inability is not due to my own actions or those of my client, but solely due to the behavior of Mr. Greer.
4. I have repeatedly written to the Plaintiff, Russell Greer, and proposed dates for a Rule 37-1 conference via zoom. The Plaintiff frequently responds to my emails, but he never accepts or rejects any of my proposed dates or times for the conference. Instead, he proceeds as if no conference has been proposed, or as if the conference is not mandatory. I

have attached numerous emails with the Plaintiff to my filings in this case, but there are more. Mr. Greer appears to respond to what he wishes to respond to, and to ignore the portions of emails that he prefers to ignore, including the attempts to schedule Rule 37-1 conferences.

5. Because Mr. Greer never responds to my proposed dates and times for a conference, I end up keeping my schedule clear for conferences that never happen. I cannot equitably bill the Defendants in this case for time I have cleared to hold a conference with Mr. Greer, when Mr. Greer has not responded either affirmatively or negatively and no meaningful attorney work has occurred. But I also cannot leave the office, schedule other matters, or devote myself efficiently to my remaining cases because I do not wish to become unavailable if Mr. Greer decides, for the first time, to participate in the Rule 37-1 process.
6. I kept my calendar clear for Mr. Greer in this case on the following dates, and no conference was held: December 3, 2024 (noon to 1:00 p.m.), December 4, 2024 (noon to 1:00 p.m.), December 5, 2024 (noon to 1:00 p.m.), December 17, 2024 (noon to 1:00 p.m.), December 18, 2024 (noon to 1:00 p.m.). As of this filing, I also have kept December 19, 2024 beginning at noon available, although it is presently mere minutes until any conference would take place and I have not heard from Mr. Greer.
7. As a solo practitioner, I cannot afford to continue to devote non-billable time to schedule meetings with Mr. Greer that never take place. Mr. Greer has demonstrated through his repeated pattern of behavior that he will not

engage with the mandatory Rule 37-1 conferral process. I therefore ask that this Court excuse me from further fruitless attempts to “meet and confer” with Mr. Greer, or order Mr. Greer to compensate me for time spent in attempts to meet and confer with him in good faith.

8. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on December 19, 2024

/s/ Matthew D. Hardin

**Matthew D. Hardin**

Attorney for Defendants