

Matthew D. Hardin (*pro hac vice*)
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THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH

RUSSELL GREER,

Plaintiff,

v.

JOSHUA MOON, *et al.*

Defendants.

**Response in Opposition to Motion
at ECF No. 190**

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

District Judge David Barlow
Magistrate Judge Jared C. Bennett

NOW COME the Defendants, by and through undersigned counsel, and file this Opposition to the Motion filed at ECF No. 190. In opposition, Defendants state as follows:

1. Mr. Greer's motion does not cite the authority upon which Mr. Greer believes he is entitled to conduct a debtor's examination. For that reason alone, the Motion ought to be denied, because Defendants cannot be expected to intelligently respond to a motion that is bereft of any and all legal authority. DUCivR 7-1 (a)(1) requires that a Motion provide "the grounds for.. relief" and "supporting authority" which will enable an effective response.

2. Mr. Greer indicated by email to undersigned counsel on January 13, 2025, that he believes his motion is governed by Fed. R. Civ. P. 69. Exhibit A. But Fed. R. Civ. P. 69 provides for this Court to issue writs of execution according to the laws of the State of Utah. Utah law does not appear to contemplate or authorize a procedure such as that requested by the Plaintiff here.

3. Mr. Greer's Motion is moot, because this Court awarded Defendants a judgment against Mr. Greer that exceeds the earlier amount of Mr. Greer's costs. ECF No. 230 (awarding \$1,000 to defendants). Defendants pointed out to Mr. Greer that his motion is moot, and offered to offset the amount Mr. Greer claims (\$225.25) against the total amount that is owed to Defendants (\$1,000). Exhibit B. In response, Mr. Greer pledged to withdraw his motion. *Id.* Notwithstanding Mr. Greer's plain statement that he would withdraw the motion, he has not done so.

WHEREFORE, the Motion docketed at ECF No. 190 should be denied because it requests relief which this Court is not authorized to provide under the Federal Rules of Civil Procedure, or because the Motion is moot.

DATED February 19, 2025

HARDIN LAW OFFICE


/s/ Matthew D. Hardin

Matthew D. Hardin

Attorney for Defendants



RG

From: Russell Greer RussMark@gmail.com 
Subject: Re: Invitation to Meet & Confer
Date: January 13, 2025 at 2:32 AM
To: Matthew Hardin matthewdhardin@gmail.com

Sir,

The amended production will be provided Monday by 11:59 PM PST.

I do have the initial disclosure list here attached. Just trying to put all of the documents in the same document. Attached at least the description list. Will send the final document with all documents by tomorrow at 11:59 PM.

As for debtor's motion: it is governed by FRCP 69. I believe I sent you an email last week saying I could amend that motion with updated rules.

Initial disclosure .pdf

114 KB



Sent from my iPhone

On Jan 6, 2025, at 1:00 PM, Matthew Hardin <matthewdhardin@gmail.com> wrote:

This will confirm our meet and confer from approximately 3:10 to 3:30 this afternoon. Without waiving any of our rights or yours, it was agreed as follows:

- 1) You intend to provide a supplemental/amended response to our request for production of documents by January 13, 2025.
- 2) You also intend to amend your initial disclosures to provide a "list" of all documents by January 13, 2025.
- 3) Your position is that the request for a debtor's examination is not governed by Rule 37-1 and does not seek discovery. You indicated you will notify us by January 13, 2025 what rule you believe governs that motion.

Best,

Matthew D. Hardin

Hardin Law Office

Direct Dial: 202-802-1948

NYC Office: 212-680-4938

Email: MatthewDHardin@protonmail.com

On Jan 6, 2025, at 3:05 PM, Matthew Hardin <matthewdhardin@gmail.com> wrote:

Mr. Moon and I are awaiting this meet and confer. Please let me know if you are having technological difficulties or if you will be joining us shortly.

Best,

Matthew D. Hardin

Hardin Law Office

Direct Dial: 202-802-1948

NYC Office: 212-680-4938

Email: MatthewDHardin@protonmail.com

On Jan 6, 2025, at 2:01 PM, Matthew Hardin <matthewdhardin@gmail.com> wrote:

Mr. Greer,

Per our discussions, I have scheduled a virtual meet and confer with you at 3 pm Eastern Time. Zoom may have sent you this invitation already, but I am copying and pasting it below just in case you have not already received it:

Matthew Hardin is inviting you to a scheduled Zoom meeting.

Topic: Meet and Confer (Russell Greer)

Time: Jan 6, 2025 03:00 PM Eastern Time (US and Canada)

Join Zoom Meeting

<https://us06web.zoom.us/j/87493653415?pwd=0G5IzlaKMrhncKDRVGM0vi5tBmhxFD.1>

Meeting ID: 874 9365 3415
Passcode: 627203

Find your local number: <https://us06web.zoom.us/j/kcuZuwpaR2>

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.



RG

From: Russell Greer RussMark@gmail.com
Subject: Re: Activity in Case 2:24-cv-00421-DBB-JCB Greer v. Moon et al Memorandum Decision
Date: February 15, 2025 at 8:34 PM
To: Joshua Moon jcmoon@pm.me, Matthew D. Hardin MatthewDHardin@protonmail.com

Hello,

So if the \$225.25 is deducted, you want \$774.75?

And ok I will withdraw the motion

Sent from my iPhone

On Feb 12, 2025, at 11:24 AM, Matthew Hardin <matthewdhardin@gmail.com> wrote:

Good afternoon,

In light of the below order, we request that you withdraw your motion at ECF No. 190 as moot. You may deduct \$225.25 from your payment to us, as an offset. Should you fail to withdraw your motion at ECF No. 190, we will of course argue that it is moot in our response on February 28. But additionally, you will be liable for sanctions if we are forced to respond to a moot motion that you have failed to appropriately withdraw. "Plaintiff may be susceptible to sanctions for failing to withdraw the motion once it became moot." *Dorado v. Murillo*, 2024 Cal. Super. LEXIS 12966, *3 (Fe. 9, 2024).

Notwithstanding your vow to "appeal the hell out of this" on February 11, 2025, we also wish to advise you that an interlocutory appeal of a civil sanction is impermissible. "Sanctions, even if issued as civil contempt orders, generally are not deemed final appealable orders under 28 U.S.C. § 1291." *Law v. NCAA*, 134 F.3d 1438, 1440 (10th Cir. 1998). *See also G.J.B. & Assocs., Inc. v. Singleton*, 913 F.2d 824, 827-29 (10th Cir. 1990) (counsel of record may not file interlocutory appeal for imposition of sanctions); *D&H Marketers, Inc. v. Freedom Oil & Gas, Inc.*, 744 F.2d 1443, 1445-46 (10th Cir. 1984) (parties may not file interlocutory appeal from imposition of sanctions); *see also Consumers Gas & Oil, Inc., v. Farmland Indus., Inc.*, 84 F.3d 367, 370 (10th Cir. 1996) (party to a pending proceeding may appeal civil contempt order only as part of appeal from final judgment). Should you attempt an interlocutory appeal which the appellate court has no jurisdiction to hear, you can expect that we will seek compensation under Fed. R. App. P. 38.

Best,

Matthew D. Hardin

Hardin Law Office

Direct Dial: 202-802-1948

NYC Office: 212-680-4938

Email: MatthewDHardin@protonmail.com

On Feb 12, 2025, at 1:04 PM, 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.

*****NOTE TO PUBLIC ACCESS USERS*** There is no charge for viewing opinions.**

US District Court Electronic Case Filing System

District of Utah

Notice of Electronic Filing

The following transaction was entered on 2/12/2025 at 11:04 AM MST and filed on 2/12/2025

Case Name: Greer v. Moon et al

Case Number: [2:24-cv-00421-DBB-JCB](#)

Filer:

Document Number: [230](#)

Docket Text:

MEMORANDUM DECISION and Order: The court ADOPTS IN PART Magistrate Judge Bennett's Order [218]. The court GRANTS IN PART and DENIES IN PART Mr. Greers Objection [221]. Mr. Greer is ORDERED to pay Defendants an award of \$1,000 on or before March 13, 2025. Signed by Judge

David Barlow on 02/12/2025. (kpf)

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

Stewart B. Harman stewart.harman@bachhomes.com, aanderson@pckutah.com

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=2/12/2025] [FileNumber=6050790-0]
] [2a7d4bc59f906bce91ec690b8557cbf821a9f643bc5c12884075b23562b8956e024
048941b873d010d500b8e4194a83ebb07f4f8f98617f97a8e161fc3e3c0f]]