

Saul Goodman (#12345)
Altioem Legal Services, PLLC
123 Legal Aid St
Salt Lake City, Utah 84109
(801) 855-6541
info@altioemlegalservices.com
Attorney for Plaintiff

IN THE THIRD JUDICIAL DISTRICT COURT,
IN AND FOR SALT LAKE COUNTY, STATE OF UTAH

GOOD CLIENT,

Plaintiff

vs.

OPPOSING PARTY,

Defendant.

**STATEMENT OF DISCOVERY ISSUES
AND VERIFIED EX PARTE MOTION
FOR AN ORDER COMPELLING
DEFENDANT TO BE DEPOSED IN
ADVANCE OF HEARING**

Case No. 123456789

Judge: James Gardner
Commissioner: Michelle Tack

Plaintiff, by and through his counsel of record, hereby submits this statement of discovery issues and moves for an order compelling Defendant to be deposed in advance of the hearing scheduled for March 2, 2018, on Defendant's motions.

Counsel for Plaintiff has in good faith attempted to confer with counsel for Defendant by telephone in an effort to resolve the dispute without court action, but to no avail.

MEMORANDUM IN SUPPORT

1. Counsel for Plaintiff has attempted to schedule the completion of Defendant's deposition since January 10, 2018.

2. Eventually, on January 26, 2018, via email, Defendant's counsel stated that he would get back to Plaintiff's counsel the next day with dates of when he and Defendant would be available to complete Defendant's deposition.

3. Counsel for Defendant did not get back to Plaintiff's counsel the next day as promised, nor the day after.

4. By that time, Defendant's counsel never provided any dates, so on January 28, 2018, Plaintiff's counsel sent notice to Defendant's counsel of the deposition of Defendant, scheduled for February 13, 2018.

5. Plaintiff's counsel scheduled Defendant's deposition on a date of his choosing, and he scheduled it as far out as he could, yet still gave time to depose Defendant before the March 2, 2018, hearing on Defendant's motions.

6. Counsel for Defendant did not respond to the deposition notice until February 7, 2018 (6 days before the deposition), at which time he claimed he could not be available on that date.

7. Plaintiff's counsel informed Defendant's counsel that he wanted to depose Defendant before March 2, 2018, on the subjects of her motions.

8. Plaintiff's counsel also informed Defendant's counsel that if February 13, 2018, was not a date that Defendant and her counsel could accommodate, then Plaintiff and his counsel could reschedule the deposition for a different date before March 2, 2018.

9. Defendant's counsel responded by refusing to schedule the deposition for a different date before March 2, 2018.

10. On February 8, 2018, Plaintiff's counsel emailed counsel for Defendant that Defendant had been given three reasonable options:

- a. pick a day before the March 2, 2018, hearing when Defendant and her counsel are available to complete her deposition;

- b. stipulate to continue the hearing so that Defendant can be deposed in advance of the hearing; or
- c. schedule the deposition to commence at 9:00 a.m. at the courthouse on March 2, 2018, so that Defendant could be questioned at least an hour on her motions before the hearing.

11. As of the date and time this motion is filed and served, Defendant's counsel refuses to schedule the deposition for a different date before March 2, 2018, so that Plaintiff could complete the deposition of Defendant in advance of (and as part of preparation for) the hearing on Defendant's motions.

12. Consequently, Plaintiff files and serves this motion.

13. What Plaintiff seeks to do by deposing Defendant on, *inter alia*, the subject of her motions, is without question proportional under Rule 26(b)(2) of the Utah Rules of Civil Procedure.

Wherefore, Plaintiff requests that the court issue an order compelling Defendant to submit to being deposed in advance of the hearing scheduled for March 2, 2018, on Defendant's motions.

VERIFICATION

I declare under criminal penalty under the law of the State of Utah that the foregoing is true and correct.

Signed on: February 9, 2018.

At: Salt Lake County, Utah

Signature: /s/ Saul Goodman
Saul Goodman,
Attorney for Plaintiff

CERTIFICATE OF SERVICE

On February 9, 2018, I caused to be served, by electronic filing, a true and correct copy of the foregoing upon:

Opposing Counsel

/s/ Saul Goodman

SAMPLE
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