

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

GREG GIVENS,
Plaintiff,

vs.

**CIVIL ACTION NO. 5:08CV25
Judge Stamp**

**WILLIAM CRISWELL and
REBECCA RANDOLPH,**

Defendants.

ORDER/OPINION

On September 25, 2009 Plaintiff Greg Givens, *pro se*, filed a “Notice and Motion for Hearing on Defendant (in light of impending federal evidence) Of Non-Delivery of Service Upon Plaintiff” [Docket Entry 156]. On October 6, 2009, Defendant Rebecca Randolph filed a Response to the Motion [Docket Entry 165]. On October 23, 2008, District Judge Frederick P. Stamp referred any non-dispositive pre-trial motions, excluding motions in limine, to the undersigned United States Magistrate Judge for decision [Docket Entry 85].

Plaintiff Givens requests a hearing in his Notice and Motion. Since this is the second such motion this *pro se* Plaintiff has filed in this case¹, the undersigned finds a hearing is necessary to accord the *pro se* Plaintiff the opportunity to produce under oath testimony and competent evidence in support of the allegations he has made in his motion and for the Defendant to have an opportunity to refute the same.

Accordingly, *pro se* Plaintiffs motion insofar only as it requests a hearing is **GRANTED**. The *pro se* Plaintiff and counsel for Defendants affected by the pending motion shall appear before the Court at the Clarksburg, West Virginia point of holding Court on October 20, 2009 at 12:00 p.m.

¹The first motion having been disposed of without a hearing by Order of the Court dated September 4, 2009 [DE150].

(noon) prepared to present such under oath testimony and competent evidence deemed necessary to support or oppose the pending motion and to show cause why costs or sanctions, if any, including but not limited to attorneys fees incident to the prosecution or defense of the motion that may be appropriate under Fed. R. Civ. P. 11(b) and (c), *In re Kunstler*, 914 F.2d 505, 546 (4th Cir. 1990); *Blue v. United States Dep't of Army*, 914 F.2d 525, 534 (4th Cir. 1990).

It is so **ORDERED**.

The Clerk of the Court is directed to send a copy of this Order to counsel of record, and to Greg Givens, Plaintiff *pro se* by Certified United States Mail.

DATED: October 9, 2009

John S. Kaull
JOHN S. KAULL
UNITED STATES MAGISTRATE JUDGE