

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

VOLVO CONSTRUCTION)
EQUIPMENT RENTS, INC.,)
)
Plaintiff,)
)
v.)
)
NRL RENTALS, L.L.C, et al.,)
)
Defendants.)

4:11CV3010

MEMORANDUM AND ORDER

On February 15, 2011, Plaintiff Volvo moved for an Order, (filing no. 9) compelling Rachel R. Erick to comply with the subpoena duces tecum served on or about December 18, 2010 in this action and the subsequent Motion to Compel filed January 26, 2011, (filing no. 1). After several failed attempts to obtain Ms. Erick’s compliance without court action, the plaintiff filed a motion to “reactivate” its motion to compel, (filing no. 12). Upon the showing set forth in the plaintiff’s motion,

IT IS ORDERED:

- 1) The plaintiff’s Motion to Reactivate Motion to Enter Order , (filing no. 12), is granted.
- 2) The plaintiff’s motions to compel, (filing nos. 1 and 9), are granted, and
 - a. Rachel R. Erick is compelled to comply with the subpoena personally served upon her on or about December 18, 2010 and produce all records and documents requested therein; and
 - b. Rachel R. Erick is ordered to appear personally before this Court on Friday, April 29, 2011 at 1:00 p.m. in Courtroom #4, Third Floor, Omaha Federal Building, 111 South 18th Plaza, Suite 1152, Omaha, NE 68102, and at the hearing, shall provide the information requested herein, execute the Yahoo! consent form attached to this Order as

Exhibit A, and comply with the subpoena duces tecum in all other respects.

- 3) The clerk shall mail a copy of this order certified U.S. mail, return receipt requested, to Ms. Erick at her last known address: 6713 S. 188th Street, Omaha, Nebraska 68135-3667.

DATED this 18th day of April, 2011.

BY THE COURT:

s/ Cheryl R. Zwart
United States Magistrate Judge

Consent to Search and Account Verification

I, Rachel R. Erick the account holder of the Yahoo! account with Yahoo! ID rre_21@yahoo.com, understand that my account is being sought in connection with a subpoena. I hereby grant my consent to authorize the following law firm/agency: McIntyre, Kahn & Kruse Co., LPA to receive, review, copy, and otherwise obtain access to all information of any kind held by Yahoo! relating to my account, including but not limited to information about my identity, my online activities and the contents of all electronic files or communications maintained by Yahoo! related to me or my ID.

Pursuant to the consent I hereby request that the following specific information be provided: All information of any kind held by Yahoo! relating to my account, including but not limited to information about my identity, my online activities and the contents of all electronic files or communications maintained by Yahoo! related to me or my ID.

I further request that the above information be provided to:

Name: McIntyre, Kahn & Kruse Co., LPA
Address: The Galleria and Towers at Erieview
1301 E. 9th Street, Suite 2200
City, State, Zip: Cleveland, OH 44114

In connection with this authority to release information, I do hereby agree to hold harmless and do forever hold harmless Yahoo! for the disclosure of such information and do forever waive on my behalf, and on behalf of my heirs and assigns, any and all claims resulting from Yahoo!'s disclosure of any information related to my account pursuant to this authorization.

The following information should be used by Yahoo! to verify my identity*:

My login name/Yahoo! ID is _____
My Yahoo! e-mail address is rre21@yahoo.com
My alternate e-mail address is _____
My city, state and zip is Omaha, Nebraska 68135
My gender is Female

Next, at a minimum, please provide either (i) your date of birth and *one* answer to your secret questions OR (ii) the answers to *two* of your secret questions.

(i) The birth date I provided is _____
Secret Question: _____
Answer: _____

OR

(ii) Secret Question 1: Where did you meet your spouse?
Answer: _____
Secret Question 2: What was the make of your first car?
Answer: _____

Yahoo! user's signature

Date

* In order for Yahoo! to verify the account, the user must provide information that matches the information Yahoo! has on record for that account. The terms of this consent are not subject to modification.

Exhibit "A"