

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK**

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**LEE DODGE INC., et al.**

**Plaintiffs,**

**-against-**

**NEXTEPPE BUSINESS SOLUTIONS,  
INC., et al.,**

**Defendants.**  
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**MEMORANDUM  
AND ORDER**

**10-CV-5943 (SJ)**

**ROANNE L. MANN, UNITED STATES MAGISTRATE JUDGE:**

Plaintiffs' motion for additional time to complete discovery, and for a compulsion order against defendant East Hills, ECF Docket Entry ("DE") #48, is denied except to the limited extent specified below.

As an initial matter, despite previous admonitions from this Court, see Order (Nov. 1, 2011), D.E. #41, plaintiffs persist in ignoring the Court's Individual Rules, in that they failed to consult with opposing counsel to ascertain their positions on this motion. On that basis alone, the Court would be justified in denying the application in its entirety.<sup>1</sup>

In any event, plaintiffs' motion to compel is denied as moot, inasmuch as the inspection sought by plaintiffs has taken place. See Letter to the Court from Richard M. Hendler (Nov. 18, 2011) ("East Hills Letter"), at 2, DE #50. The Court will not order East Hills to produce hard copies that it does not maintain. See id.

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<sup>1</sup> It cannot be claimed that plaintiffs had no opportunity to consult with defense counsel before filing the motion: Plaintiffs' counsel telephoned Chambers on the afternoon of Tuesday, November 15, 2011, and spoke with the Court's law clerk, apparently seeking advice or an oral *ex parte* ruling; plaintiffs' counsel was told that any application should be made in writing. Plaintiffs' motion was not filed until almost 7:30 p.m. the following evening.

The Court will give plaintiffs until November 23, 2011 to serve disclosure as to plaintiffs' damages. Plaintiffs' request to otherwise further extend discovery is denied, largely for the reasons stated in the East Hills Letter and stated by the Court on the record at the last two proceedings in this case. Depositions must be completed by the December 16th discovery deadline, and must be scheduled for dates that are mutually agreeable to all counsel. The Court will tolerate no further delays in this case.

**SO ORDERED.**

**Dated: Brooklyn, New York  
November 18, 2011**

*/s/*  
**ROANNE L. MANN  
UNITED STATES MAGISTRATE JUDGE**