

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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TNT USA, INC.,

Plaintiff,

-against-

DHL EXPRESS (USA), INC.,

Defendant.

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ORDER

CV 09-481 (JS)(ARL)

LINDSAY, Magistrate Judge:

Before the court is defendant's letter application dated January 11, 2011 seeking to compel plaintiff (i) to produce TNT employee Alan Corps for a deposition, (ii) to produce the rates charged to TNT's affiliates, (iii) to return a DHL confidential spreadsheet produced at the deposition of Charles Brewer on an Attorney's Eyes Only basis and that DHL has replaced with a redacted version, and (iv) to extend pre-trial deadlines pending TNT's compliance with a court's January 6, 2011 order. Plaintiff opposes the motion. Defendant's motion is granted, in part.

Defendant's motion to produce Alan Corps for a deposition is granted. Mr. Corps authored documents concerning an area of inquiry addressed in the court's January 6, 2011 order. Defendant's motion to compel discovery concerning rates was previously granted in the court's January 6, 2011 order. Defendant's motion to compel plaintiff to return the whisper call spreadsheet produced at the deposition of Charles Brewer is denied, as the spreadsheet is highly relevant to the timing and strategy of DHL's alleged breach, has been in TNT's possession for over a month, and has been produced on an Attorney's Eyes Only basis. Said document must be returned, however, at the conclusion of the proceedings.

To permit the parties' compliance with the court's January 6, 2011 order and the scheduling of Mr. Corps deposition, the court will grant a one-week extension of the discovery deadline for this limited purpose. Plaintiff is directed to produce the documents and Mr. Corp for a deposition on or before January 26, 2011. Neither party may serve new requests or discovery applications. The deadline to commence dispositive motion practice is extended to February 2, 2011. The final conference remains scheduled for February 8, 2011. The parties are directed to electronically file the proposed joint pretrial order prior to the final conference.

Dated: Central Islip, New York
January 19, 2011

SO ORDERED:

/s
ARLENE ROSARIO LINDSAY
United States Magistrate Judge