

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK-----X
TWIN COUNTY HVAC/ REFRIGERATION,
LLC,

Plaintiff,

-against-

ORDER

CV 10-2277 (LDW)(ARL)

AHOLD U.S.A. INC., et al.,

Defendants.
-----X**LINDSAY, Magistrate Judge:**

Before the court is the defendant Ahold U.S.A., Inc.'s ("defendant") letter motion dated August 6, 2013, seeking to compel a duly authorized representative of plaintiff to submit to a deposition and for an award of costs and sanctions commensurate with plaintiff's failure to appear at a previously noticed deposition on August 6, 2013. Plaintiff has opposed the motion by letter dated August 8, 2013 and also seeks costs and sanctions.

Defendant's motion to compel the plaintiff to submit to a deposition prior to the discovery deadline is denied as moot. The plaintiff represented in its letter dated August 8, 2013 that defense counsel had called off the previously scheduled deposition with a request to plaintiff's counsel that the parties "finalize a binding schedule for the completion of depositions in advance of the trial scheduled in October 2013" and that plaintiff's counsel twice offered to reschedule the deposition. Plaintiff's counsel shall contact defense counsel forthwith to arrange for a mutually convenient time to schedule the deposition. The parties' respective requests for costs and sanctions are denied.

Dated: Central Islip, New York
August 13, 2013

SO ORDERED:

_____/s/_____
ARLENE R. LINDSAY
United States Magistrate Judge