

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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LESSEP ANTONIO,

Plaintiff,

**ORDER**

CV 12-4053(ADS)(ARL)

-against-

GREEN ISLAND TREE SPRAY, INC., et al.,

Defendants.

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**LINDSAY, Magistrate Judge:**

Before the court is plaintiff's letter motion dated May 16, 2013, to compel defendants to produce (1) actual wage statements and time records of plaintiff; (2) e-discovery, including email searches with relevant terms; (3) any documents which could prove defendants' assertion that plaintiff was an exempt employee; and (4) deposition dates for individual defendant Robert Ward and defendants' 30(b)(6) witnesses. In response, defendants have represented that they (1) have produced supplemental documents establishing that plaintiff was an exempt employee; (2) have advised plaintiff that they are obtaining any time records that may exist and are reviewing their files for any time records that may exist; (3) maintain they are not in possession, custody or control of any e-discovery concerning plaintiff; and (4) have advised plaintiff that should any more responsive documents exist, they are in storage, and anticipate producing the outstanding documents shortly. With respect to the scheduling of depositions, defendants state they are willing to attend depositions, but have scheduling limitations since they run a small business and can only attend depositions on Sundays or on a date after Labor Day.

The defendants are directed to fully respond to all outstanding discovery demands by June 14, 2013. In view of the circumstances and constraints of defendants' business, the court will not require that the depositions to be conducted prior to the August 13, 2013 discovery deadline. Defense counsel is directed to contact plaintiff's counsel forthwith to arrange for a mutually convenient time to schedule the depositions of Mr. Ward and defendants' 30(b)(6) witnesses on or before September 13, 2013. The court will extend the discovery deadlines to enable the parties to engage in any follow up discovery necessitated by the depositions. Accordingly, all discovery, inclusive of expert discovery, must be completed by October 15, 2013. The deadline to commence dispositive motion practice is extended to October 29, 2012. The final conference scheduled for September 10, 2013 is adjourned to November 12, 2013 at 11:30 a.m. The parties are directed to electronically file a proposed joint pretrial order prior to the final conference.

Dated: Central Islip, New York  
May 22, 2013

**SO ORDERED:**

/s/  
ARLENE ROSARIO LINDSAY  
United States Magistrate Judge