

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT DAYTON

THE REYNOLDS & REYNOLDS COMPANY,

Plaintiff,

Case No.: 1:12-cv-848

vs.

SUPERIOR INTEGRATED SOLUTIONS, INC.,

District Judge Thomas M. Rose

Magistrate Judge Michael J. Newman

Defendant.

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**ORDER**

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The Court held a telephone conference with the parties on February 10, 2014 at 3:00 p.m. to discuss the motion to compel (doc. 87) filed by Defendant, Superior Integrated Solutions, Inc. (“SIS”). Participating in the call were Ms. Gulley, Mr. Ross, Mr. Harvey, and Mr. Greer, counsel for Plaintiff, the Reynolds & Reynolds Company (“Reynolds”); and Mr. Dyer and Ms. Crandall, counsel for SIS. Also present was court reporter Leslie Foley.

The Court began the conference by clarifying with counsel for SIS as to whether all extrajudicial means to resolve the dispute had been exhausted prior to filing to motion to compel. Mr. Dyer advised the Court that extrajudicial means had been exhausted and that SIS would file the appropriate certification indicating such.

Recognizing that the issues raised in the motion to compel require briefing and could not be resolved during the call, the Court established the following briefing schedule, to which counsel for both sides agreed:

Reynolds’ memorandum in opposition:

**February 24, 2014**

SIS’ reply:

**March 3, 2014**

The Court also scheduled oral argument on the merits for **March 5, 2014 at 2:00 p.m.**, a date to which counsel for both sides also agreed.<sup>1</sup>

SIS raised three additional arguments separate and apart from the motion to compel. First, SIS asked the Court to set a date certain for Reynolds to produce the documents no longer at issue in the request for production. The Court **ORDERS** Reynolds to use its best efforts and to act in good faith to produce the documents not at issue.

Second, SIS asked the Court for interim Attorneys' Eyes Only protection of the various contracts at issue pending the Court's ruling on the motion to compel (doc. 46) and motion to modify the Protective Order (doc. 51). The Court takes this oral request **UNDER SUBMISSION**.

Third, SIS raised the potential to take the deposition of Kelly Hall, Vice President of Software Development for Reynolds. Hall submitted an affidavit in conjunction with Reynolds' memorandum in opposition to SIS' renewed emergency motion for preliminary injunction. Doc. 30-1. In the June 6, 2013 Order granting Reynolds' motion to dismiss SIS' first amended counterclaims, Judge Rose took judicial notice that Reynolds' auto-dealership customers typically agree to certain prohibitions on integration of third-party applications based on Hall's affidavit. Doc. 37 at PageID 363. On January 24, 2014, SIS filed a motion to reconsider the portion of the June 6, 2013 Order that takes judicial notice. Judge Rose has since issued an Order denying SIS's motion for reconsideration. Doc. 90. Accordingly, SIS's request is **DENIED AS MOOT**.

**IT IS SO ORDERED.**

February 10, 2014

**s/ Michael J. Newman**  
United States Magistrate Judge

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<sup>1</sup> The call-in number for the telephone conference is 1-877-336-1839. Parties shall follow the instructions on the automated system. The access code is 2725365, the security code is 123456.