

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.

ORDER

This civil action is brought by Plaintiff, the Reynolds & Reynolds Company (“Reynolds”), against Defendant, Superior Integrated Solutions, Inc. (“SIS”).

On February 25, 2014, the Court held an informal discovery conference, by phone, with counsel of record. The Court permitted attorney Brice Wilkinson to participate in the call; he shall file a Notice of Appearance, and complete the appropriate *pro hac vice* forms, within **TEN DAYS** of the issuance of this Order.

Several discovery matters were discussed during the 1.5 hour call, during which the Court heard extensive oral argument. Those matters are addressed in turn.

First, having reviewed the recently-filed motion by Reynolds for a partial discovery stay (doc. 96) -- to stay discovery concerning SIS’s counterclaims -- the Court finds expedited briefing is not necessary, and that the motion should be briefed in the normal course. Accordingly, SIS shall have 21 days from the motion’s filing in which to submit its memorandum in opposition, and Reynolds shall have 14 days thereafter in which to file a reply

memo, if any. S.D. Ohio Civ. R. 7.2(a)(2). Three days shall be added to these deadlines pursuant to Fed. R. Civ. P. 6(d).

Second, during the call, Reynolds advised SIS and the Court that it intends to file a motion to dismiss SIS's counterclaims on or before this Friday (February 28, 2014), as authorized by the Court's February 7, 2014 Order. Counsel for both sides then discussed at length the anticipated deposition of Brian Simmermon, Chief Information Officer of Subaru of America, Inc. The Court was advised that Mr. Simmermon is expected to testify both with respect to Reynolds' claims and SIS's counterclaims. Given that the Court is soon to rule on the motion to dismiss those counterclaims, the Court believes the appropriate course -- at this juncture in the litigation, and without making any finding regarding the merits (or lack thereof) of SIS's counterclaims or Reynolds' yet-to-be-filed motion to dismiss -- is to stay the Simmermon deposition until after the Court rules upon the dismissal motion and the motion for a discovery stay. Accordingly, that deposition is now **STAYED**.

Finally, the Court was presented with argument concerning the timing of three depositions to occur in March 2014: (1) Tom Adolph, whom SIS seeks to depose; (2) Mike Gabriele, a Rule 30(b)(6) witness on behalf of SIS whom Reynolds seeks to depose; and (3) Eric Avery, whom SIS seeks to depose. As an initial matter, the Court expresses its reluctance to decide deposition scheduling, particularly in a case such as this one, where there are a multitude of experienced counsel on both sides. In the future, the Court expects such matters to be resolved -- in good faith and cooperatively -- amongst counsel. Nonetheless, as it is apparent this dispute was not able to be resolved, the Court will rule. It appears to the Court there is an agreement to depose Mr. Adolph on March 20th in Houston, Texas; accordingly, no ruling is needed (or made) with respect to that deposition. Mr. Gabriele was noticed prior to Mr. Avery

and, accordingly, the Gabriele deposition shall occur prior to the Avery deposition. Counsel shall work together to determine the date, time, and location of these latter two depositions.

IT IS SO ORDERED.

February 27, 2014

s/ Michael J. Newman
United States Magistrate Judge