

**UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA**

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| AIRCRAFT FUELING SYSTEMS, INC., |) | |
| |) | |
| PLAINTIFF, |) | |
| |) | |
| vs. |) | CASE No. 08-CV-414-GKF-FHM |
| |) | |
| SOUTHWEST AIRLINES, CO., |) | |
| |) | |
| DEFENDANT. |) | |

OPINION AND ORDER

Plaintiff’s Motion for Leave for a Limited Resumption of the Depositions of Thomas McCartin and Robert Myrben, [Dkt. 141], is before the Court for decision. Defendant has filed a response, [Dkt. 155], and Plaintiff has filed a reply, [Dkt. 164].

Plaintiff seeks leave to re-depose two of Defendant’s witnesses based upon Defendant’s production of documents after the discovery deadline. Plaintiff requests that the scope of the depositions include: 1) the documents produced after the discovery deadline; 2) documents produced after the witnesses’ first depositions; 3) Defendant’s document retention policies and systems; and 4) follow-up questions.

Defendant responds that the motion should be denied because the documents produced after the discovery deadline did not contain any new information that is relevant to Plaintiff’s claims and the other areas of inquiry have no relation to the documents produced after the discovery deadline.

The Court is not convinced that the documents produced after the discovery deadline do not contain some new relevant information. Based upon Defendant’s production of these documents after the discovery deadline, it is appropriate to resolve these issues in Plaintiff’s favor and permit Plaintiff to re-depose the witnesses on the

contents of these documents and appropriate follow-up questions to answers about the contents of these documents.

Plaintiff's requests to re-depose the witnesses on documents produced after the witnesses' first depositions and on Defendant's document retention policies and systems is not supported by Defendant's production of documents after the discovery deadline. These requests simply seek to re-open discovery which the Court has previously denied. [Dkt. 138].

Plaintiff's Motion for Leave for a Limited Resumption of the Depositions of Thomas McCartin and Robert Myrben, [Dkt. 141], is GRANTED in part and DENIED in part. The motion is granted to the extent that Plaintiff may re-depose the witnesses concerning the contents of the documents produced by Defendant after the discovery deadline and appropriate follow-up questions to the witnesses' answers. The depositions are limited to three hours each. In all other respects, Plaintiff's motion is denied.

SO ORDERED this 7th day of September, 2011.


FRANK H. McCARTHY
UNITED STATES MAGISTRATE JUDGE