

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK**

EARTHLINK, LLC,

Plaintiff,

v.

CHARTER COMMUNICATIONS OPERATING,
LLC,

Defendant.

Index No. 654332/2020

STIPULATION

WHEREAS, on July 28, 2022, Plaintiff EarthLink, LLC (“EarthLink”) filed for an Order to Show Cause seeking spoliation sanctions (Order to Show Cause) against Defendant Charter Communications Operating, LLC (“Charter,” and collectively with EarthLink, “EarthLink”);

WHEREAS, on August 1, 2022, the Court ordered that: (i) Charter’s opposition the Order to Show Cause be submitted by August 29, 2022; (ii) EarthLink’s reply in further support of the Order to Show Cause be submitted by September 9, 2022; and (iii) a hearing on the Order to Show Cause be scheduled for September 12, 2022;

WHEREAS, in accordance with the so-ordered Stipulation and Order for the Production and Exchange of Confidential Information, any application for sealed treatment of documents filed in connection with EarthLink’s reply is due to be filed seven days in advance of the reply deadline;

WHEREAS, on August 26, 2022, Charter filed its opposition to the Order to Show Cause referencing and relying on transcripts of certain of the deleted audio recordings that are the subject of the Order to Show Cause application;

WHEREAS, on August 29, 2022, Charter produced five Excel files containing the transcriptions referenced and relied on in its opposition to the Order Show Cause (the “Files”);

WHEREAS, EarthLink raised an issue related to the formatting of, and redactions within, those Files and requested that Charter work to correct it and reproduce the Files, and Charter has agreed to produce the documents in the requested format;

WHEREAS, Charter is not presently able to provide a definite date on which it can complete re-production of the Files;

WHEREAS, given Charter’s need for additional time to reproduce the Files and EarthLink’s need to review the same in order to respond to Charter’s Opposition to EarthLink’s Order to Show Cause for Spoliation Sanctions, EarthLink proposes extending the reply deadline on Order to Show Cause from September 9, 2022 to the later of September 16, 2022, or one week after the completion of Charter’s re-production of the Files;

WHEREAS, EarthLink proposes that the foregoing further warrants corresponding adjournments of the deadline to submit an order to show cause for sealed filing in connection with its reply and the September 12, 2022 hearing are warranted;

WHEREAS, Charter consents to the foregoing proposed extensions and adjournments;

IT IS HEREBY STIPULATED AND AGREED by and between the undersigned counsel for the Parties as follows:

1. EarthLink’s time to submit its reply in further support of the Order to Show Cause is hereby extended to the later of September 16, or one week after Charter completes its re-production of the Files;

2. EarthLink's time to file an order to show cause to seal documents in connection with is hereby extended to the later of September 12, or five days before EarthLink's deadline to submit its reply; and
3. The Order to Show Cause hearing currently scheduled for September 12, 2022 is hereby adjourned.

Dated: September 7, 2022
New York, New York

Respectfully submitted,

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*Attorney for Defendant Charter
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SO ORDERED:

Hon. Andrea Masley, J.S.C.