

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK: COMMERCIAL DIVISION

EARTHLINK, LLC,

Plaintiff,

v.

CHARTER COMMUNICATIONS OPERATING,  
LLC,

Defendant.

Index No. 654332/2020

Hon. Andrea Masley

Mot. Seq. 004

**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, the “Parties”);

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;

WHEREAS, Charter has agreed to reproduce the Files by September 16, 2022;

WHEREAS, the Parties advised the Court of the foregoing by email updates on September 1, 2022 and September 8, 2022;

WHEREAS, in response to the Parties' email updates, Ms. Victoria Corbo directed the Parties to submit a stipulation setting forth revised deadlines for EarthLink's reply and related Order to Show Cause deadlines;

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

1. Charter shall re-produce the Files by September 16, 2022;
2. EarthLink shall file an order to show cause to seal documents in connection with its reply in further support of the Order to Show Cause by September 21, 2022;
3. EarthLink shall file its reply in further support of the Order to Show Cause by September 26, 2022;
4. The Order to Show Cause hearing currently scheduled for September 12, 2022 is hereby adjourned *to September 29, 2022 at 11 AM.*

Dated: September 13, 2022  
New York, New York

Respectfully submitted,

KING & SPALDING LLP

By: /s/ Shaila Rahman Diwan

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*Attorney for Defendant Charter  
Communications Operating, LLC*

SO ORDERED:

Hon. Andrea Masley, J.S.C.

9/15/2022