

VIRGINIA:

IN THE CIRCUIT COURT FOR LOUDOUN COUNTY

GLOBAL AEROSPACE INC., et al.

Plaintiff,

v.

LANDOW AVIATION, L.P. d/b/a

Dulles Jet Center, et al.

Defendants.

CONSOLIDATED CASE NO. CL 61040

CASES AFFECTED

- * Global Aerospace Inc., et al. v. Landow Aviation, L.P. d/b/a Dulles Jet Center, et al. (Case No. CL 61040)
- * BAE Systems Survivability Systems, LLC v. Landow Aviation, L.P., et al. (Case No. CL 61991)
- * La Réunion Aérienne v. Landow Aviation, L.P. d/b/a Dulles Jet Center, et al. (Case No. CL 64475)
- * United States Aviation Underwriters, Inc. v. Landow Aviation, L.P., et al. (Case No. CL 63795)
- * Chartis Aerospace Adjustment Services, Inc. v. Landow Builders Inc., et al. (Case No. CL 63190)
- * Factory Mutual Insurance Company v. Landow Builders Inc., et al. (Case No. CL 63575)
- * The Travelers Indemnity Company, as subrogee of Landow Aviation Limited Partnership v. Bascon, Inc., et al. (Case No. CL 61909)
- * Global Aerospace, Inc. v. J. H. Brandt and Associates, Inc., et al. (Case No. CL 61712)
- * M.I.C. Industries, Inc. v. Landow Aviation, L.P., et al. (Case No. 71633)

**ORDER APPROVING
THE USE OF PREDICTIVE CODING FOR DISCOVERY**

Having heard argument with regard to the Motion of Landow Aviation Limited Partnership, Landow Aviation I, Inc., and Landow & Company Builders, Inc., pursuant to Virginia Rules of Supreme Court 4:1(b) and (c) and 4:15, it is hereby ordered Defendants shall be allowed to proceed with the use of predictive coding for purposes of the processing and

production of electronically stored information.

with processing to be completed within 60 days and production to follow as soon as practicable and this is without prejudice to a receiving party raising with the court an issue as to completeness or the contents of the production or the ongoing use of predictive coding.

23rd

Entered this ___ day of April, 2012.

James H. Chamblin

James H. Chamblin
Loudoun County Circuit Judge

[Handwritten signature]

We ask for this:

Jonathan M. Stern (VA Bar No. 41930)
Gordon S. Woodward (VA Bar No. 42449)
Counsel for Ladow Aviation Limited Partnership and
Ladow Aviation I, Inc.

Endorsements waived pursuant to Rule 1:13

Seen and Objected to

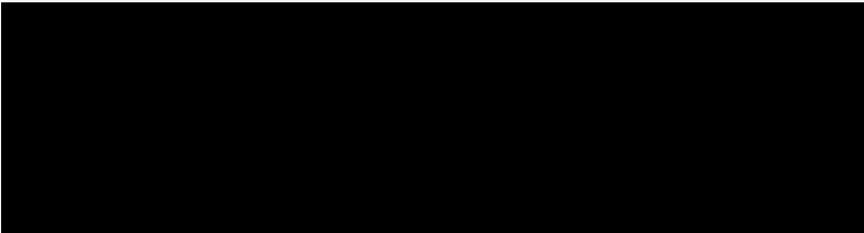
William G. Lupton Sr. 4/23/12

William G. Lupton Sr
counsel for M.I.C. Industries, Inc.

We ask for this:

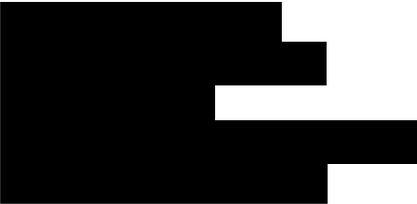
Danielle M. LaCoe

Danielle M. LaCoe (USB # 987155)
Attney for Ladow & Company Builders, Inc.



December 5, 2012

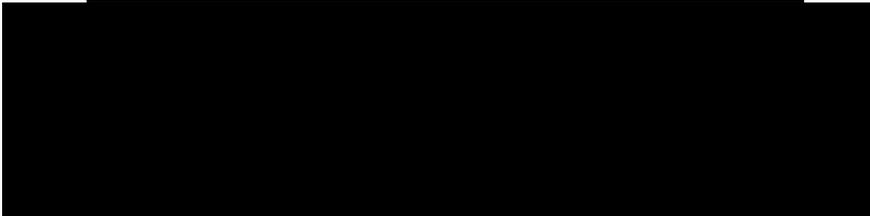
VIA E-Mail



We write to help make our upcoming ESI meet and conferral more productive by providing this non-exhaustive list of information we are seeking. We reserve the right to modify and add to this list as we receive more information from you about [redacted] electronic systems, electronic records, and preservation efforts.

Pursuant to Fed. R. Civ. P. 26, we ask that you be ready to discuss the following:

1. **Time Records** - Plaintiff anticipates that time keeping record systems, if any, will contain relevant ESI, including metadata. This includes any electronic system in which working times could be determined, including but not limited to, computer logs, telephone systems, badge reader reports, etc.
2. **Servers** - Please identify the servers, mainframes, backups or any hard drive that may contain relevant ESI. Please state how many of these servers, mainframes, backups or hard drives are in the Defendants' possession, as well as their physical location.
3. **Corporate-level File Shares** - We ask that you identify all corporate-level file shares where documents (e.g., Word documents, Excel Spreadsheets, Power Points, PDFs, etc.) are stored since we anticipate that relevant ESI will be contained on these file shares. We also ask that you identify [redacted] employees



December 5, 2012

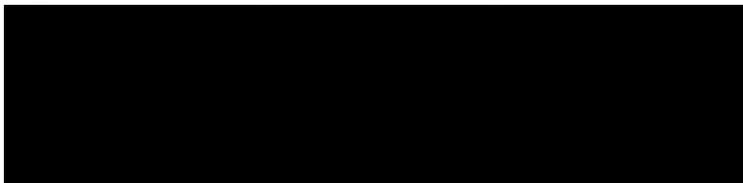
who have access to these identified file shares and the amount of data contained on such file shares.

4. **Internal Portals and/or Intranet** - Plaintiff anticipates that any such systems will contain relevant ESI, including metadata. Please identify the names of such systems and whether review of this data requires the use of proprietary software.
5. **Payroll Data Fields** - We ask that payroll data be preserved and produced in a manipulable format. We also ask that [REDACTED] provide us with a comprehensive list of available fields and a dictionary from which we will select fields to be produced.
6. **Laptop or Desktop Hard Drives** - We expect [REDACTED] to maintain the status quo (do not destroy or alter any store specific or key custodian laptop or desktop hard drives) located at [REDACTED] until the parties reach an agreement concerning the scope of the production of such hard drives. Plaintiff anticipates that these hard drives will likely contain relevant ESI, including metadata, which may include potentially important work documents that demonstrate that shift managers/operations managers perform the same or similar duties regardless of the location in which they work, as well as the high level of corporate control of the daily work experience of these employees.

We also would like to know how far back in time Defendants have retained hard drives and how many hard drives it has preserved. If any data available on hard drives is also available from other sources, please identify such sources and the period for which such data is available.

7. **E-mail System** - Please identify the type of e-mail system(s) used by [REDACTED], the time frame and format for e-mails that have been preserved (distinguishing between the e-mails preserved on accessible media and, if any, those that Defendant alleges are preserved on inaccessible media) and the format of preserved but inaccessible e-mails.
8. **Rotation Systems** - Please identify [REDACTED] data rotation (or "recycling") systems, the extent to which those systems have been suspended since the start of this case, as well as the related litigation pending in the E.D.N.Y. [REDACTED] the categories of data that are stored on rotation systems, and the time period(s) for the preservation of data included on any rotation systems.
9. **Backup Data** - Please identify any backup systems that may contain relevant data. For each such identified backup system, please identify the efforts required

[REDACTED]



January 4, 2013

VIA E-Mail

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Re: [REDACTED]

Dear [REDACTED]:

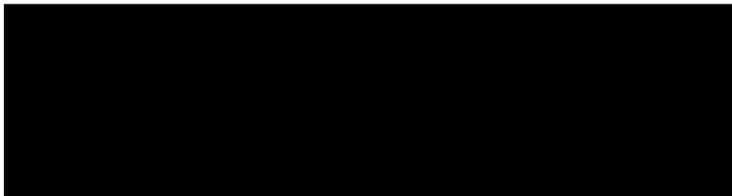
We are writing in response to your December 19, 2012 letter regarding discovery of ESI in this case.

[REDACTED] ESI Preservation

Thank you for the information about [REDACTED]' ESI preservation efforts. We have the following follow-up requests concerning Defendant's ESI preservation. First, you advise that [REDACTED] "is taking reasonable steps to preserve ESI in [certain] locations . . ." Please identify the locations you refer to in your letter. Second, you also state that [REDACTED] has issued a litigation record hold to "ESI custodians whom [REDACTED] has reason to believe may possess relevant information . . ." We note that you refer to these custodians throughout your letter. Please identify, by name and title, these ESI custodians.

Corporate-level File Shares

Are the personal file shares for each employee maintained on the Microsoft file server or in some other location? Also, we assume that the 800 GB of data you identify is the total for ALL [REDACTED] employees. Please confirm. We also ask that you confirm that the assistant managers at issue in this case each have their own personal file share and the name of these file shares, if any. Finally, please advise where the



January 4, 2013

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departmental shares and general public share for all employees are maintained and the names of these file shares.

Internal Portals and/or Intranet

Please identify the information contained on the [REDACTED] system and advise how it is communicated to the restaurant-level employees. Also, please provide the name of the corporate office file share where the relevant information is located.

Payroll

We will agree to address metadata fields for payroll data during the merits phase of this litigation. By so agreeing, however, we do not waive our right to disagree with your proposed fields of data set forth in your December 19th letter. We also reserve our right to seek additional information about the fields you identify.

Laptop or Desktop Hard Drives

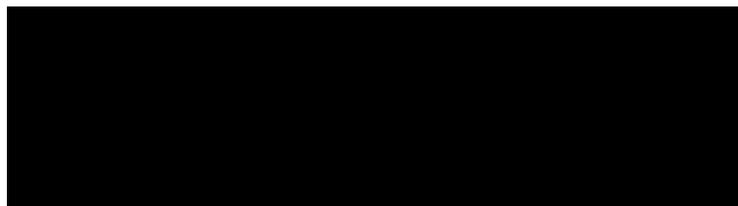
Please identify, by name and title, the custodians who were provided with preservation holds for their laptops and other hard drives. Please also provide the date(s) of such litigation holds and the time period for which they cover. Please confirm whether each [REDACTED] location has any restaurant-level computers and whether those hard drives have been preserved and not altered since the start of this litigation.

E-mail Systems

Please identify, by name and title, the individuals who have received litigation holds for e-mail. Moreover, please provide details for [REDACTED]' position that e-mail will not be a source of any substantial quantity of relevant information. We also ask you to provide the reason(s) that some "non-duplicative, relevant email exists in non-reasonably accessible format on monthly backups of the email server" and the circumstances surrounding the fact that such relevant e-mail was rendered inaccessible. Finally, please advise how [REDACTED] is "preserving the Exchange mailboxes" of the relevant ESI custodians.

Rotation Systems

Please provide details for Defendant's position that it would be "onerous to restore and export particular custodians' email," including the costs of such restoration,



[REDACTED]
January 4, 2013

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the efforts that such restoration would take, and the identity of the custodians you refer to in this section of your letter. Moreover, you refer to "monthly backups." Please provide details about these monthly backups, such as whether they are maintained on tapes and, if so, the number of tapes and the dates of these tapes.

ESI Key Players/ESI Custodians

We reiterate our request that you identify, by name and title, the individuals you are referring to in this section of your December 19th letter.

Additional Information

In addition to the above, we also have the following questions:

- Are there any database servers used within the corporation? If so, please provide details for the systems that are used and the type of data they maintain.
- Are there any systems in place for HR purposes? If so, please provide details for the systems and what type of data they maintain.
- Please confirm that there are no Mainframes used within the corporation.
- Please confirm there are no Audio and Video recording systems within the corporation.

As we would like to move this process forward as quickly and cooperatively as possible, we would like to schedule another call (ideally with our respective ESI consultants) to discuss these issues further. Are you available during the afternoon of Wednesday, January 9, 2013? If not, please provide alternative dates and times when you are available to continue this dialogue.

Very truly yours,

[REDACTED]

[REDACTED]

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
[REDACTED]
: Plaintiffs,
: -against-
: [REDACTED]
: Defendants.
-----X

No. 10-cv-3571 (ILG) (VVP)

**PLAINTIFF'S THIRD REQUEST FOR
PRODUCTION OF DOCUMENTS TO DEFENDANTS**

PLEASE TAKE NOTICE that, pursuant to Rules 26 and 34 of the Federal Rules of Civil Procedure, Plaintiff [REDACTED] ("Plaintiff") requests that Defendants [REDACTED]
[REDACTED]

("Defendants") produce the documents requested herein for the purposes of inspection and copying within thirty days after service hereof, in accordance with the instructions and definitions below.

INSTRUCTIONS

For the purposes of these requests, the following instructions and definitions shall apply:

- A. You are required to obtain and furnish all information available to you and any of your representatives, divisions, employees, agents, brokers or servants and to obtain and furnish all information that is in your possession or under your control, or in the possession or under the control of any of your representatives, employees, agents or servants.
- B. Each request which seeks information relating in any way to communications from or within a business or corporate entity, is hereby designated to demand and should be construed to include all communications by and between representatives, employees, agents, brokers or servants of the business or corporate entity.

- C. Each request should be responded to separately. However, a document, which is responsive to more than one request, may, if the relevant portion is marked or indexed, be produced and referred to in a later response.
- D. Pursuant to FED. R. CIV. P. 34(b), all documents produced shall be segregated and identified by the paragraphs to which they are primarily responsive. Where required by a particular paragraph of this Request, documents produced shall be further segregated and identified as indicated in this paragraph. For any documents that are stored or maintained in files in the normal course of business, such documents shall be produced in such files, or in such a manner as to preserve and identify the file from which such documents were taken.
- E. If any document responsive to these requests is withheld based on a claim of privilege or other protection, for each such document: (1) identify the withheld document--including its general subject matter, its date, its author and its addressee; (2) state the privilege or other grounds for withholding the document; and (3) state the factual basis for the claim in sufficient detail so as to permit an adjudication of the validity of the claim.
- F. If you object to part of any request, please furnish documents responsive to the remainder of the request.
- G. All documents produced in response to this Request shall be produced in whole, notwithstanding that portions thereof may contain information not requested.
- H. If any documents requested herein have been lost or destroyed, the documents so lost or destroyed shall be identified by author, date and subject matter.
- I. With respect to any document requested which was once in your possession, custody or control, but no longer is, please indicate the date the document ceased to be in your possession, custody or control, the manner in which it ceased to be in your possession, custody and control and the name and address of its present custodian.
- J. This request is continuing in nature and requires a continuing duty to promptly supplement the production with documents obtained subsequent to the preparation and filing of a response to each request.
- K. As used herein, "Assistant Manager" shall mean and refer to any and all of Defendants' current or former employees working at any and all of Defendants' store locations in that position.
- L. Unless otherwise indicated, each request is to be construed as encompassing all documents that pertain to the stated subject matter and to events that transpired between August 2, 2004 and the present.

DEFINITIONS

1. All definitions and rules of construction set forth in Federal Rules of Civil Procedure shall apply to all requests for documents herein.
2. The terms "You", "Your" and "Yourself" as used herein, shall mean and refer to the Defendants and their agents, employees, servants, representatives, officers, directors, affiliates, advisors, attorneys, predecessors and successors in interest and all other persons acting or purporting to act on their behalf.
3. The term "Person" or "Persons" as used herein, shall include without limitation any natural person or business, legal or governmental entity or association.
4. The term "Document" or "Documents" as used herein shall include, without limitation any written, typed, printed, recorded, graphic, computer generated or other matter of any kind from which information can be derived, whether produced, reproduced or stored on paper, cards, tape, film, electronic facsimile, computer storage devices (such as computer discs or hard drives), computer-generated electronic mail ("e-mail") that is in your actual or constructive possession, custody or control, or the existence of which you have knowledge and, whether prepared, published or released by you or any other person. It includes, without limitation, any binder, cover note, certificate, letter, correspondence, memorandum, book, record, table, chart, exhibit, index, analysis, graph, schedule, report, evaluation, test, study, note, list, appointment book, diary, log, calendar, telex, facsimile, message, bulletin, questionnaire, bill, purchase order, contract, memorandum of contract, agreement, assignment, blueprint, drawing, diagram, application, license, permit, ledger, ledger entry, book of account, check, order, invoice, receipt, statement, financial data, acknowledgement, proposal, budget material, information contained in, on or retrievable from computer hard drives, information contained in, on or retrievable from computer-generated electronic mail systems ("e-mail"), computer or data processing card, computer or data processing disk or diskette, zip file, computer-generated matter, computer back-up tapes, photograph, photographic negative, audiotape, cassette tape, phonograph recording, transcript or log of such recording, projection, videotape, film, microfiche, motion, petition, complaint, answer, response, reply, protest, verified statement, hearing transcript, attachment, filing submission, pleading and all other data compilations from which information can be obtained or translated, reports and/or summaries of investigations, drafts and revisions of drafts of any documents and original preliminary notes or sketches, no matter how produced or maintained, notations of conversations, notations of telephone calls, notations of any other type of communications, information contained in any computer although not printed out, whether in machine readable or other form. The term "Document" or "Documents" as used herein shall also include each copy that is not identical to the original and the preliminary drafts of any document or working paper related thereto. All scanned paper, email and native file collections should be converted/processed to TIFF files, Bates numbered, and include fully searchable text. Additionally, email and native file collections should include linked native files.

5. The term “Produce” means to produce in the document’s native format and includes Electronically Stored Information (“ESI”). ESI should be produced in its native format. This means that a document which was originally created as a Microsoft Word file or an Excel spreadsheet should be produced as a .doc, .docx or .xls file (or its successor). E-mails should be produced in .msg or .pst file format, and with the full header accessible and readable. Native paper documents should be produced using load files in the Concordance application.
6. The term "Relating to" as used herein shall mean consisting of, referring to, describing, discussing, constituting, evidencing, containing, mentioning, concerning, pertaining to, citing, summarizing, analyzing or bearing any logical or factual connection with the matter discussed.
7. The term "And" as used herein shall be construed to mean "Or" and the term "Or" as used herein shall be construed to mean "And" when necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside of its scope.
8. The term "Each" as used herein shall be construed to mean "All" and the term "All" as used herein shall be construed to mean "Each" when necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside of its scope.
9. The use of the singular shall include the plural and the use of the plural herein shall include the singular.
10. The use of the masculine form of any word herein shall include the feminine and the use of the feminine form of any word herein shall include the masculine.
11. The term "Communication" as used herein shall mean the transmission of information (in the form of facts, ideas, inquiries or otherwise).
12. The term “FLSA” as used herein shall mean the “Fair Labor Standards Act” and all of its regulations.
13. The term “NYLL” as used herein shall mean the “New York Labor Law” and all of its regulations.

DOCUMENTS REQUESTED

Request No. 1:

Should Defendants claim or defend against this action on the ground or basis that their methods of compensating Assistant Managers was performed with a good faith reasonable

belief that Defendants were complying with the FLSA and NYLL, produce all documents relating to that claim or defense.

Request No. 2:

Should Defendants claim or defend against this action the ground or basis that their actions were not willfully in violation of the FLSA and NYLL, produce all documents relating to that claim or defense.

Request No. 3:

Produce documents that refer or relate to the compensation of Plaintiff and the collective action members including but not limited to:

- (a) wage rates;
- (b) salary rates;
- (c) bonuses;
- (d) overtime rates;
- (e) dates of employment; and
- (f) total compensation.

Request No. 4:

Produce documents that refer, relate, or pertain to the job descriptions for Assistant Managers. This request includes electronic mail, handwritten notes, typewritten notes, and other documents that relate to the creation, drafting, and/or applicability of the job descriptions.

Request No. 5:

Produce documents that refer, reflect or pertain to opinion letters sought by Defendants concerning the classification of Assistant Managers as exempt from the FLSA's and NYLL's overtime requirements. This request includes, but is not limited to, documents relating to a

review of the Assistant Manager classification performed by in-house counsel, outside counsel, any governmental agency, and/or third-party.

Request No. 6:

Produce documents consisting of or evidencing investigations, rulings, decisions or opinions rendered by any federal or state court or administrative agency, relating to the issue of whether Assistant Manager are or should be classified as exempt or non-exempt from overtime under the FLSA and/or NYLL.

Request No. 7:

Produce documents reflecting, pertaining or relating to the wages paid to all hourly employees in units in which Assistant Managers worked. To the extent that any document would reveal confidential information of an hourly employee (i.e. social security number), Defendants may redact that information.

Dated: 
February 12, 2013

