

2022 WL 2071738  
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United States District Court,  
N.D. Georgia, Atlanta Division.

Carol Lynn BIRKNER and  
John Matthew Wolfe, Plaintiffs,  
v.

NESH AUTO SALES  
LLC, Defendant.

CIVIL ACTION NO.  
1:22-cv-01354-LMM

|  
Signed 06/08/2022

#### **Attorneys and Law Firms**

Shimshon Wexler, S. Wexler, LLC,  
Atlanta, GA, for Plaintiffs.

#### **ORDER**

Leigh Martin May, United States District  
Judge

\*1 The Court is in receipt of the parties' emails and attachments regarding Plaintiffs' request for limited discovery before responding to Defendant's Motion to Dismiss or, in the Alternative, Stay Proceedings and Compel Arbitration. Dkt. 7. Specifically, Plaintiffs request the deposition of Kamyar Neshastehchi, the

sole owner and principal of Defendant, and the production of documents related to the possible defenses to Defendant's Motion discussed in Plaintiffs' email to the Court.

One of the issues Plaintiffs raised is whether Plaintiffs opted out of arbitration. Mr. Neshastehchi supplied a declaration in support of Defendant's Motion. In paragraph 9 of Mr. Neshastehchi's declaration, he states: "Nesh has received no communications from Plaintiffs about the allegations they have asserted in their Complaint, their intention to file a lawsuit, or the possibility of arbitrating the dispute underlying the lawsuit." In response, Plaintiffs have provided the Court with an email and letter with a USPS tracking receipt that Plaintiffs claim were sent to Defendant, which potentially contradict this statement. As such, the Court will allow the limited discovery Plaintiffs seek. The parties have 30 days from the date of this order to conduct this limited discovery. Plaintiffs then have 14 days to file their response to Defendant's Motion.

**IT IS SO ORDERED** this 8th day of  
June, 2022.

#### **All Citations**

Not Reported in Fed. Supp., 2022 WL  
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