

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

EQUAL EMPLOYMENT  
OPPORTUNITY COMMISSION,

CIVIL NO. 03-3296 (DSD/JSM)

Plaintiff,

GLEND A ROBERTSON,

Plaintiff-Intervenor,

v.

ORDER

COCA-COLA ENTERPRISES, INC.  
D/B/A MIDWEST COCA-COLA  
BOTTLING CO.,

Defendant.

JANIE S. MAYERON, U.S. Magistrate Judge

The above matter came on before the undersigned on March 25, 2004, upon plaintiffs' Joint Motion to Compel Discovery [Docket No. 20]. Tina Burnside, Esq. appeared on behalf of plaintiff Equal Employment Opportunity Commission ("EEOC"); Jordan Kushner, Esq. appeared on behalf of plaintiff-intervenor Glenda Robertson ("Robertson"). Todd Presnell, Esq. appeared on behalf of defendant.

The Court, upon all of the files, records, and proceedings herein, now makes and enters the following Order.

**IT IS HEREBY ORDERED that:**

1. With respect to Robertson's motion to compel responses to her Interrogatory No. 1 and Document Request No. 6, the Joint Motion to

Compel Discovery [Docket No. 20] is granted in part and denied in part as follows:

- a. Defendant shall provide the information and documents sought by Robertson's Interrogatory No. 1 and Document Request No. 6 for defendant's Eagan facility for the period from January 1, 2000 through October 31, 2001.
  - b. In all other respects of the instant issue, the motion is denied.
2. Defendant shall comply with this Order within 10 business days of the date of this Order.

Dated: June 24, 2004

s/ Janie S. Mayeron  
JANIE S. MAYERON  
United States Magistrate Judge

### **MEMORANDUM**

The facts related to the instant issue are as follows: The parties stipulated to Robertson's intervention in the instant case on July 2, 2003. Robertson filed a Complaint in the instant action alleging that defendant discriminated against her on the basis of her race and gender when she was not hired in October 2001.

On March 5, 2004, the EEOC and Robertson filed a Joint Motion to Compel Discovery [Docket No. 20]. Following a hearing on this motion, the Court issued an Order addressing certain aspects of this motion, taking only the subject matter of this Order under advisement. On June 22, 2004, the Court was notified that EEOC's portion

of the joint motion was withdrawn as the EEOC and defendant had settled their claims. As such, the sole remaining issue to be decided related to the joint motion is Robertson's request to compel responses to her Interrogatory No. 1 and Document Request No. 6.

Robertson's Interrogatory No. 1<sup>1</sup> and Robertson's Document Request No. 6<sup>2</sup> sought information relating to other race discrimination lawsuits and administrative proceedings against defendant. Robertson then narrowed the scope of her requests to such information related to defendant's Egan facility from the time period of January 1, 1995 to the present.

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<sup>1</sup> Robertson's Interrogatory No. 1 stated: "Have you ever been a defendant in any lawsuit, or a respondent in any administrative proceeding, charging you with discrimination based on race? If so, state for each suit or proceeding: A. The name and address of each party and each party's attorney. B. The court (including district and county) or agency in which the complaint or charge was filed, and the file number. C. The nature of the cause(s) of action. D. The date on which the suit or complaint or charge was instituted. E. The result of each suit or complaint or charge that has been concluded by judgment or settlement." In response to this request, defendant stated "Defendant objects to this interrogatory on the grounds that it is overly broad in terms of time, geography and scope, unduly burdensome, and seeks information that is neither relevant to any claim or issue in this proceeding nor reasonably likely to lead to the discovery of admissible evidence."

<sup>2</sup> Robertson's Document Request No. 6 sought the following: "Permit inspection of all files and documents pertaining to any prior lawsuits or administrative actions initiated against Defendant alleging discrimination based on race, including but not limited to charges of discrimination, complaints, answers, pleadings, deposition transcripts, affidavits, responses to interrogatories, admissions, other discovery documents, findings, orders, and settlement agreements." Defendant responded: "Objection. This request is overly broad in terms of time, geography, and scope, unduly burdensome, and seeks materials that is [sic] neither relevant to any claim or defense at issue in this proceeding nor reasonably likely to lead to the discovery of admissible evidence. Defendant also objects to this request to the extent it seeks materials covered by the attorney-client privilege or attorney work product doctrine."

In support of the motion to compel, Robertson argued that other instances of discrimination are relevant to determine whether defendant has acted with discriminatory intent, whether those individuals responsible for defendant's decision not to hire her have been involved in prior acts of discrimination, and whether defendant has engaged in a prior pattern of discrimination. In addition, Robertson argued that such information is relevant where the request was narrowed to the same form of alleged discrimination, the same department or agency in which the plaintiff worked, and limited to a reasonable period of time before and after the alleged discrimination occurred. See Joint Memorandum in Support of Plaintiffs' Motion to Compel Discovery, p. 6.

In response, defendant asserted that the five-year time period for which Robertson sought materials was overly broad and objected to providing such information prior to January 1, 2000 because defendant did not own or operate the Eagan facility until after January 1, 2000.

Federal Rule of Civil Procedure 26 provides that "parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party." FED. R. CIV. P. 26(b)(1). "Generally, discovery may inquire into all information, not otherwise privileged, that is relevant to the subject matter of the action, provided that it is reasonably calculated to lead to the discovery of admissible evidence." Minnesota Specialty Crops, Inc. v. Minnesota Wild, 210 F.R.D. 673, 675 (D. Minn. 2002) (citing FED. R. CIV. P. 26(b)(1)); see also Burns v. Hy-Vee, Inc., 2002 U.S. Dist. LEXIS 23662, \*2 (D. Minn. 2002). In addition, the Court has discretion to limit relevant discovery considering the circumstances of the case. See FED. R. CIV. PRO. 26(b)(2).

This Court concludes that information related to other race discrimination lawsuits and administrative proceedings against defendant is relevant to the claims in Robertson's Complaint. Robertson has alleged that defendant discriminated against her by its failure to hire her. Claims made in other lawsuits and administrative proceedings could bear on defendant's motive for not hiring her and the determination of whether defendant acted for discriminatory reasons in that decision. Accordingly, such information could lead to the discovery of admissible evidence. Moreover, such information could lead to the discovery of information bearing on the inquiry into whether defendant's articulated reason for not hiring Robertson was a pretext for discrimination. However, given that defendant did not own the Eagan facility before January 1, 2000, information bearing on suits and administrative proceedings against the previous owner of this facility has no relevance to this defendant's motive or reasons for not hiring Robertson. As such, the Court shall limit the contested discovery requests to information pertaining to the Eagan facility from January 1, 2000 to the time Robertson's application for employment was rejected by defendant, i.e., October 31, 2001. See Robertson's Complaint, ¶ 6.

J.S.M.