

BEFORE: JAMES ORENSTEIN DATE: 3/15/05
UNITED STATES MAGISTRATE JUDGE TIME: 10:30 a.m.

DOCKET NO.: CV 04-3076 ASSIGNED JUDGE: LDW

CASE NAME: EEOC v. Comprehensive Benefits Consultants

CIVIL CONFERENCE

Initial _____ Status X Settlement _____ Pretrial _____

APPEARANCES: Plaintiff Monique Joy Roberts, Nora Curtin
Defendant Brian S. Sokoloff

SCHEDULING:

1. The next status conference will be held on May 31, 2005, at 10:30 a.m.
2. A pretrial conference will be held on July 25, 2005, at 11:00 a.m.

THE FOLLOWING RULINGS WERE MADE: (1) For the reasons discussed on the record at the conference, plaintiff's motion to quash the subpoena on claimant Addeo's attorney is GRANTED. I conclude that the claimant and Susan Nally sought the advice of counsel together and had a common interest, that their meeting with the attorney was therefore privileged, and that there has not been an effective waiver of claimant Addeo's privilege to allow the deposition to proceed. To the extent that there were limited waivers by Ms. Addeo – such as counsel's explanation of what the initials EEOC stand for and his belief that documentary evidence and witnesses would be important – they do not constitute a waiver as to all related communications. Further, allowing inquiry into the limited areas as to which there has been a waiver would not be reasonably likely to lead to the discovery of admissible evidence, particularly since the opinion of an attorney as to the persuasiveness of evidence is not admissible. (2) Defendant will respond by March 17, 2005, to plaintiff's application to quash the subpoena on Craig Addeo. (3) The parties will submit portions of the transcript of the deposition of Fran Angelone relevant to my consideration of plaintiff's renewed application to have me review *in camera* documents claimed by plaintiff to be privileged. (4) By March 22, 2005, plaintiff will either produce Laura Hart's diary, as discussed at the conference, or confirm that it no longer exists. If it is produced and there is a question about its provenance, defendant will make further application as appropriate. If such further application is predicated on assertions about Ms. Hart's credibility, then Mr. Sokoloff must be available as a witness rather than as counsel to pursue the application. (5) Discovery is extended by 60 days. I will enter a separate amended case management and scheduling order reflecting the new deadlines.

SO ORDERED

/s/ James Orenstein
JAMES ORENSTEIN
U.S. Magistrate Judge