

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION

FILED  
AUSTIN DIVISION  
2002 JN 28 AM 9:07  
WESTERN DISTRICT OF TEXAS  
U.S. CLERK'S OFFICE  
BY: [Signature] DEPUTY

EQUAL EMPLOYMENT OPPORTUNITY §  
COMMISSION §

V. §

REGIS CORPORATION §

A-01-CA-551 JN

**ORDER**

Before the Court are Defendant's Motion to Compel Discovery filed on June 6, 2002 (Clerk's Doc. No. 21); Plaintiff's Motion for Protective Order to Reschedule the Deposition of Jack R. Kelly filed on June 26, 2002 (Clerk's Doc. No. 28); and Defendant's Motion to Compel the Deposition of Jack R. Kelly and Sanctions, filed on June 26, 2002 (Clerk's Doc. No. 30). The District Court referred the above motions to the undersigned Magistrate Judge for a determination pursuant to 28 U.S.C. §636(b) and Rule 1(c) of Appendix C of the Local Rules of the United States District Court for the Western District of Texas, Local Rules for the Assignment of Duties to United States Magistrate Judges. On June 26, 2002, the Magistrate Court heard oral arguments on all of these motions. The Court made oral rulings on the motions at the conclusion of that hearing, and those rulings, and the rationales expressed therefore, are hereby incorporated into this Order. The purpose of this Order is to memorialize in writing the rulings on the motions made on the record.

**I. Defendant's Motion to Compel Discovery**

In this motion, Defendant sought blanket authorizations from the EEOC's plaintiff class members for the release of any and all employment records from employers or prospective employers since the time of the plaintiffs departing from Regis. The EEOC resisted this request as improperly broad, and argued that the amount of information that could be obtained from such unlimited

discovery would unnecessarily infringe upon the privacy of the plaintiff class members. The Court agrees that such blanket authorizations are unnecessary and improper.

As stated in the hearing on this motion, the Court will not order the EEOC to deliver such blanket authorizations to Defendant. Rather, the Court will ORDER the EEOC to deliver to Defendant signed authorizations directed to employers to whom the charging parties have applied for employment or obtained employment after they ceased working for Regis, authorizing the release of any applications for employment, payroll records, and employment records specifically related to alleged inappropriate sexual behavior in the workplace. Each authorization will be specifically tailored to individual employers. If, at a later date, other past or current employers of the charging parties are discovered that are currently unknown, a similarly specific authorization for release of employment records must be delivered to Defendant within 10 days of notification.

Defendant has moved for sanctions regarding this discovery dispute. The Court finds that the positions taken by both sides in this dispute were taken in good faith and in the best interest of their respective clients, and that a legitimate dispute which warranted court resolution was raised by the motion. Accordingly, no sanctions are warranted.

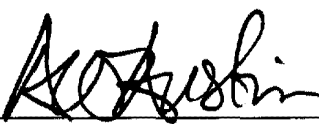
In summary, Defendant's Motion to Compel Discovery (Clerk's Doc. No. 21) is GRANTED IN PART and DENIED IN PART as set forth above.

## **II. Motions Regarding the Deposition of Jack R. Kelly**

The Court also heard arguments regarding Plaintiff's motion to have the deposition of plaintiff class member Jack R. Kelly postponed for one week, and Defendant's related motion to compel the deposition on the originally scheduled date. Apparently, Hidalgo County, Texas, has issued a warrant for Mr. Kelly's arrest, and he would like to reschedule his deposition in order to deal with that situation first. The Court does not find that Mr. Kelly's unrelated legal situation

should impede Regis Corporation's ability to defend the suit that is being pursued on his behalf (at least in part), and with his consent. Further, postponing the deposition until a time after which Mr. Kelly surrenders himself on the pending warrant could prevent the Defendant from being able to obtain his testimony prior to the discovery cut-off. On balance, the Court finds that it is more appropriate to allow the deposition to move forward as scheduled, and then for Mr. Kelly to travel to Hidalgo County to respond to the pending warrant. Therefore, Plaintiff's Motion for Protective Order to Reschedule the Deposition of Jack R. Kelly (Clerk's Doc. No. 28) is DENIED; and Defendant's Motion to Compel the Deposition of Jack R. Kelly (Clerk's Doc. No. 30) is GRANTED. Defendant has also requested sanctions against the EEOC for seeking a protective order, but the Court finds that sanctions are unwarranted given that the EEOC was simply – and properly – responding to notification from Mr. Kelly that he now objected to being deposed on the originally scheduled date. Accordingly, the Motion for Sanctions (contained within Clerk's Doc. No. 30) is DENIED.

SIGNED this 27<sup>th</sup> day of June, 2002.

  
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ANDREW W. AUSTIN  
UNITED STATES MAGISTRATE JUDGE