

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

EQUAL EMPLOYMENT OPPORTUNITY	§	
COMMISSION,	§	
	§	
Plaintiff,	§	
	§	
v.	§	4:04cv75
	§	
TELESERVICES MARKETING	§	
CORPORATION AND GENERAL	§	
TELEMARKETING INTERNATIONAL,	§	
INC.,	§	

**ORDER GRANTING PLAINTIFF’S MOTION TO COMPEL AND DENYING
PLAINTIFF’S MOTION TO QUASH AND DEFENDANT’S MOTION TO COMPEL**

On March 15, 2005, the Court held a telephonic hearing on Plaintiff Equal Employment Opportunity Commission’s (“EEOC”) Motion to Compel Discovery (Doc. No. 31), EEOC’s Motion to Quash Defendant’s Deposition Upon Written Questions and Documents to be Produced (Doc. No. 30), and Defendant Teleservices Marketing Corporation’s (“TMC”) Motion to Compel Discovery Responses (Doc. No. 32). Having considered the motions, the responses and the arguments of counsel, the Court made certain oral rulings that are herein reduced to writing.

The EEOC filed a motion to compel the answer to an interrogatory that dealt with the transfer of assets out of TMC. The Court is of the opinion that the financial condition of TMC is relevant to the issue of punitive damages and is discoverable. Accordingly, TMC’s Motion to Compel an answer to Plaintiff’s Interrogatory No. 25 should be granted, but the scope of the

answer should be limited in time to the date of the filing of Mr. Babiker's charge of discrimination up until the trial of this case.

The EEOC also filed a Motion to Quash Defendant's Deposition Upon Written Questions. TMC argues that the subpoena for depositions on written questions and documents to be produced therewith that was directed to John Kelleher, Chief Counsel United States Secret Service and Cheryl McElroy, Custodian of Records for the United States Secret Service are relevant in this case to the issues of mitigation of damages and Mr. Babiker's credibility. The Court is not persuaded that mitigation of damages is an issue in this case, but the depositions on written questions could lead to the discovery of admissible evidence relevant to Mr. Babiker's credibility. However, the Court finds that the scope of the current depositions on written questions is far too broad. Accordingly, TMC shall reissue new depositions on written questions to determine whether Mr. Babiker was ever employed by the Secret Service and the dates of that employment, if any.¹ TMC shall reissue these new depositions on written questions within ten (10) days of the signing of this Order.

Finally, the Court considered TMC's Motion to Compel Discovery Responses. Specifically, TMC moves to compel an answer to Request No. 2 of Defendant's First Request for Production to Plaintiff, which requests that Mr. Babiker produce his income tax returns, including all schedules, all W-2's and all other attachments for the year, beginning with the year

¹If necessary, any answers by the United States Secret Service may be filed under seal and subject to a protective order.

1993 through the time of trial. The Court overrules this motion without prejudice to TMC's re-urging the motion at a later date.

It is so ORDERED.

SIGNED this 15th day of March, 2005.



PAUL BROWN
SENIOR UNITED STATES DISTRICT JUDGE