

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION**

**UNITED STATES EQUAL
EMPLOYMENT OPPORTUNITY
COMMISSION,**

Plaintiff,

-vs-

Case No. 6:05-cv-1452-Orl-28KRS

FLTVT, LLC,

Defendant.

ORDER

This cause came on for consideration without oral argument on the following motion filed herein:

**MOTION: DEFENDANT FLTVT, LLC'S MOTION TO COMPEL
PLAINTIFFS' EMPLOYMENT RECORDS (Doc. No. 38)**

FILED: June 13, 2007

THEREON it is ORDERED that the motion is DENIED.

On February 27, 2006, Defendant FLTVT, LLC (FLTVT) served a request for production of documents on the individual plaintiffs who intervened in this case. More than one year after the request was served, and only two days before the close of discovery, FLTVT now seeks to compel the individual plaintiffs to produce documents responsive to request number 15, which reads as follows:

Any and all documents relating to your employment with any and all employers since January 2001 and for five years prior to employment with FLTVT, including but not limited to any application for employment, personnel file, employee handbook, employment

agreement and any other documents which reflect such terms as salary, and other forms of compensation, employee benefits, or any documents describing the position held, the reasons for leaving the job, your performance in each position held, and any dispute you had with any employers. Please execute the attached records authorization form to authorize FLTVT to obtain related documents directly from your employers.

Doc. No. 38 at 1-2. The individual plaintiffs responded that, except for tax returns and related documents, they were not in possession, custody or control of the requested documents. Doc. No. 38 at 2.¹

In its motion, FLTVT does not present any reason to believe that the individual plaintiffs have possession, custody or control of responsive documents. Instead, it argues that the individual plaintiffs should have executed authorizations to permit it to obtain the documents directly from the individual plaintiffs' employers. FLTVT does not cite any law supporting the proposition that individual plaintiffs must sign authorizations in order for a defendant to obtain records not in their possession, custody or control. FLTVT had ample opportunity to issue subpoenas to the individual plaintiffs' employers pursuant to Federal Rule of Civil Procedure 45 if it wished to obtain the records, and there is no showing that the employers would not have produced these records absent signed releases from

¹ Curiously, the individual plaintiffs seek a protective order in response to the motion. If the protective order is directed only at the request that the Court compel plaintiffs to sign authorization for release of their records, the motion is moot. If, however, the motion is intended to protect the individual plaintiffs from producing responsive documents that are within their possession, custody and control, the arguments have been waived by their failure to object to request number 15 in their initial responses to the request. Accordingly, if the individual plaintiffs have documents responsive to request number 15, it is **ORDERED** that they shall produce them for inspection and copying on or before July 16, 2007.

the individual plaintiffs. Accordingly, no basis has been established supporting an order requiring the individual plaintiffs to sign authorizations to release the records FLTVT requested.

DONE and **ORDERED** in Orlando, Florida on July 10, 2007.

Karla R. Spaulding

KARLA R. SPAULDING
UNITED STATES MAGISTRATE JUDGE

Copies furnished to:

Counsel of Record
Unrepresented Parties