

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

EQUAL EMPLOYMENT)	
OPPORTUNITY COMMISSION,)	
)	
Plaintiff,)	
)	
v.)	CIV-03-1363-R
)	
CITGO PETROLEUM)	
CORPORATION,)	
)	
Defendant.)	

ORDER

Before the Court are two motions to compel filed by Plaintiff Equal Employment Opportunity Commission (EEOC). The first motion [Doc. No. 27] seeks an Order compelling Defendant to answer Interrogatories Nos. 4 and 11 of EEOC's First Set of Interrogatories and to produce documents responsive to Requests for Production Nos. 5, 6, 7, 19, 21 and 28 of EEOC's First Request for Production of Documents as well as certain bate-stamped documents included on Defendant's Index of Privileged Documents ("privilege log"). The second motion to compel [Doc. No. 26] seeks an Order compelling the deposition testimony of Defendant's employees Mr. Barentine and Mr. Bobo and directing that Defendant and/or its counsel pay the costs of reconvening the depositions of those individuals or, in the alternative, an Order barring Defendant from making any references to Jason Clark as being given special treatment, being unable to complete his work or being given limited duties and from asserting that he was a threat in the workplace. The EEOC in this motion also seeks an Order allowing it to make the same identified inquiries of witnesses

Connie Schlect, Brad Helton, Diane Kersey and Dana Lack which Defendant's counsel directed Mr. Barentine and Mr. Bobo not to answer. Defendant has not responded to either of these motions. Therefore, pursuant to LCvR 7.2(e), the Court, in its discretion, deems the motions confessed except in two limited respects and GRANTS them. Defendant is ORDERED to answer Interrogatories Nos. 4 and 11 and produce documents responsive to Requests for Production Nos. 5, 6, 7, 19, 21 and 28 within fifteen (15) days of the date of this Order. With respect to the bates-stamped numbered documents identified at page 2 of Plaintiff's motion to compel [Doc. No. 27] which are included on Defendant's privilege log, Defendant is ORDERED to provide further identifying and other information from which the claimed privileged nature of each such document may be ascertained or to produce the identified bates-stamped numbered documents to Plaintiff within fifteen (15) days of the date of this Order.

Defendant is also ORDERED to produce Mr. Barentine and Mr. Bobo for continued deposition at a time and place mutually agreeable to the parties but within twenty (20) days of the date of this Order for the limited purpose of answering the questions posed at pages 87 to 101 of Mr. Barentine's deposition which were not answered and the witnesses are ORDERED to answer such questions by providing factual information. It is further ORDERED that Plaintiff EEOC may propound the same type of questions in depositions of witnesses Connie Schlect, Brad Helton, Diane Kersey and Dana Lack. Plaintiff's request that Defendant or its counsel be required to pay the costs of reconvening the depositions of Mr.

Barentine and Mr. Bobo is DENIED inasmuch as Defendant's counsel's directives to the witnesses appear to be based upon a good faith but mistaken belief that the work product privilege insulated the information sought from discovery.

IT IS SO ORDERED this 27th day of October, 2004.

A handwritten signature in black ink, appearing to read "David L. Russell", is written over a horizontal line.

**U.S. DISTRICT JUDGE
for David L. Russell**