

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION,

Plaintiff,

vs.

CIVIL NO. 01-732 MV/RLP

STERLING BROTHERS
CONSTRUCTION, INC.,

Defendant.

**ORDER COMPELLING PRODUCTION
OF DOCUMENTS AND FOR SANCTIONS**

THIS MATTER having come before the court on Defendant's Motion to Compel Production of Documents and for Sanctions (motion not filed with the court), the court having reviewed the letter of January 11, 2002 outlining the difficulties in producing documents at the deposition of Deena Kleinegger on January 10, 2002. The court having held a telephonic conference regarding said difficulties, finds that Defendant's motion is well taken and will be **granted**.

On January 10, 2002 the deposition of Deena Kleinegger was held pursuant to a Notice to Take Deposition Duces Tecum. The notice required that the deponent bring with her ". . . all documents in your possession which relate to your claims in this matter." The deponent complied with this request and produced documents. However, counsel for Ms. Kleinegger, belatedly asserted an attorney/client privilege to a number of the documents. This belated objection delayed the deposition and resulted in the telephonic hearing on

Monday, January 14, 2002.

IT IS THEREFORE ORDERED that Plaintiff immediately produce the documents that were placed under seal subject to any attorney/client privilege objection. These documents will be produced no later than **January 15, 2002**. Contemporaneous with the production of these documents, Plaintiff shall produce a privilege log for any documents withheld pursuant to the assertion of a privilege. Further, the deposition of the charging party, Deena Kleinegger, shall be rescheduled as soon as possible.

IT IS FURTHER ORDERED that Plaintiff shall be responsible for any additional costs related to the retaking of the deposition of Deena Kleinegger. This cost does not include attorney's fees, but includes any additional appearance fee or other additional cost incurred by the defendant as a result of having to retake the deposition of Ms. Kleinegger.

IT IS SO ORDERED.



RICHARD L. PUGLISI
United States Magistrate Judge