

ORIGINAL

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO

U.S. COURT
2003 SEP 11 PM 3:22
REC'D
CAMERON S. BURKE
CLERK, IDAHO

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,

Plaintiff,

vs.

AMERIPRIDE SERVICES INC.,

Defendant.

SANDRA ROBISON,

Plaintiff/Intervenor.

Civil No. 03-065-S-BLW

PROTECTIVE ORDER

Pursuant to Rule 26 of the Federal Rules of Civil Procedure, it is hereby
ORDERED (Docket No. 15).

1. That this Protective Order shall govern the designation, disclosure and use of protected information by the parties in this action.

2. In this Protective Order the term "protected information" shall mean information designated as protected by a party pursuant to this Protective Order. Information so designated may be all or part of a document or thing, testimony, interrogatory answer, admission, or other form of evidence or discovery.

3. A party may designate as protected information any information or thing that said party believes in good faith constitutes or embodies information used by it in or pertaining to its business or information which is of a personal nature that is not generally known

PROTECTIVE ORDER - 1

and which the designating party would not normally reveal to third parties or would cause third parties to maintain in confidence.

4. Protected information shall be designated by the following procedure:

(a) When a document to be produced for inspection contains protected information, the producing party shall notify the inspecting party. A document produced for inspection for which such notice has been given shall be inspected only by persons authorized in accordance with paragraph 7 of this Protective Order.

(b) When a requesting party seeks a copy of a document, the producing party shall designate the copy as containing protected information by stamping the first page of the copy and each page of the copy that contains such information.

(c) When deposition testimony contains protected information, any attorney of record authorized pursuant to paragraph 7 herein may designate said testimony as containing protected information by notifying others present at the deposition. The court reporter shall then mark each page of the transcript that contains protected information. If no such designation is made at the time the deposition is taken the transcripts and exhibits shall not be deemed to contain protected information.

(d) When a response to an interrogatory or request for admission contains protected information, the response shall be designated as such by stamping the first page of the document and those additional pages containing protected information.

5. Any protected information or any document incorporating protected information that is filed or lodged with the Court shall be marked on the first page, sealed, and delivered to the Clerk of the Court, and shall not be available for public inspection. The

envelope used to seal such information or document shall carry an appropriate notation substantially similar to:

CONFIDENTIAL

The contents of this envelope are subject
to a PROTECTIVE ORDER issued by the COURT

and may not be opened, examined or copied
except in compliance with that Order.

United States District Court
District of Idaho
Sandra Robison and EEOC v. AmeriPride Services, Inc.
Civil Action No. 03-065-S-BLW

The Clerk shall maintain such information or document under seal, except that any judge or magistrate exercising responsibility in this action, and their legal, administrative, secretarial or clerical staffs, shall have access to documents under seal as necessary in adjudicating or administering this action.

6. Protected information shall be stamped pursuant to paragraphs 5 and 6 of this Protective Order by the placement of an appropriate stamp, sticker or other indicia of substantially the following form:

PROTECTED INFORMATION OF [insert name of party].
Disclosure subject to Court ordered Protective Order in *EEOC v.*
AmeriPride Services, Inc. Civil No. 03-065-S-BLW, Sandra
Robison and United States District Court, District of Idaho.

7. Protected information may be disclosed only to:

(a) Any attorney representing a party in this action, who has read this Protective Order, and agrees to be bound by it, and has signed the acknowledgment attached hereto as Appendix A, and any other person assisting such an attorney, employed by the same

law firm or organization as the attorney, and for whom access to confidential information is necessary to perform a duty with respect to this action. The execution of this Protective Order by any member of a law firm or organization shall constitute a representation that all persons in or employed by that firm shall observe this Protective Order.

(b) Any expert or consultant qualified to have access to protected information as provided in paragraph 8 of this Protective Order.

(c) Any personnel of the Court and court reporters retained to record and transcribe testimony in this action.

(d) Any employee of the party that produced the protected information.

(e) Any person who authored or received the protected information prior to its designation in this action as protected information.

(f) Any person, if the protected information is publicly disclosed by the party that designated the protected information.

(g) Personnel of photocopy firms and/or graphics firms who subscribe to and agree to be bound by the terms of this Protective Order and who have executed an acknowledgment form similar to Appendix A hereto. Only documents needed to be copied will be provided to said individuals.

8. Either party may designate experts or consultants, who are not regular employees of either party, and who may have access to protected information. An expert or consultant shall qualify for access to such information as follows:

(a) The party seeking to disclose protected information shall first have said expert or consultant complete and sign an acknowledgment form, shown as Appendix B to this Protective Order.

(b) When a corporation or other organization is engaged as an expert or consultant by a party or its counsel of record, said corporation or organization may become qualified to review protected information under this Protective Order only upon the qualification of each natural person within such organization or corporation who has access to protected information.

9. Either party may only introduce protected information into evidence or otherwise disclose such information in open Court proceedings upon consent of the designating party or permission of the Court.

10. The substance or contents of any protected information, as well as any notes, abstracts, copies, summaries and memoranda relating thereto, shall not be disclosed to or accessible by anyone other than a person qualified to obtain protected information pursuant to this Protective Order.

11. All materials produced in discovery, including but not limited to protected information, shall be used solely in preparation for trial and/or appeal of this action, and shall not be used or disclosed at any other time or for any other purpose whatsoever.

12. It shall be the duty and responsibility of counsel of record to ensure that documents or things containing protected information subject to counsel's control shall at all times be kept in a safe and secure fashion to ensure that such information is not disclosed to or made accessible to persons other than those specifically authorized to review protected

information under this Protective Order. Counsel of record shall be directly responsible to the court for fulfilling this responsibility.

13. The inadvertent or unintended disclosure by a party of protected information shall not be deemed a waiver in whole or in part of a subsequent claim of protection under this Protective Order, either as to the specific information disclosed or as to any other such information, provided that the inadvertent or unintended disclosure is promptly identified by the disclosing party and notice of the claim of protection is given to the other party.

14. A party shall not be obligated to challenge the propriety of any designation of protected information at the time of designation, and a failure to do so shall not preclude a subsequent challenge to the designation. If a party objects to any designation of such information the parties shall first try to resolve such dispute in good faith on an informal basis. If the dispute cannot be resolved informally, the designating party may seek appropriate relief from this Court.

15. Within thirty (30) days after the termination of this action, upon written request by the designating party, the originals and all copies of protected information shall be destroyed or returned to the party that produced such information, or to its attorney, except that one copy of such information appended to pleadings and one copy of each deposition transcript containing such information may be retained in the files of each attorney. Any information so retained shall be maintained pursuant to this Protective Order, and by retaining the information each attorney agrees to the continuing jurisdiction of this Court for purposes of enforcing this Protective Order. The designating party that seeks the return or destruction of protected

information shall be responsible for reimbursing the other party for the actual costs incurred in destroying or returning the protected information.

16. Should any party, or person qualified to obtain protected information hereunder, or their agents or representatives, receive any request for information, whether through formal compulsory process or lawful authority of the court or otherwise, prior to responding thereto, such person or counsel shall promptly serve written notice of receipt of same on counsel for all parties hereto in order to allow said party or parties to move an appropriate court or tribunal for a ruling respecting the necessity of compliance therewith. Absent a ruling from the appropriate court or tribunal on said motion, the person or party receiving the aforesaid request for information or compulsory process shall not produce in response thereto and shall thereafter do so only insofar as the court or tribunal may direct.


17. Upon final termination of this action, whether by settlement, dismissal or other disposition, the provisions of this Protective Order shall continue to be binding upon all persons or entities who are subject to the terms hereof, and the court shall retain jurisdiction for enforcement of this order.

18. Either party may seek additional protection or disclosure with respect to protected information as that party may consider appropriate.

19. Either party may request the modification of this Protective Order upon a showing of good cause.

IT IS SO ORDERED.

DATED this 10th day of September, 2003.



B. LYNN WINMILL
UNITED STATES DISTRICT JUDGE

APPENDIX A

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO**

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,

Plaintiff,

vs.

AMERIPRIDE SERVICES INC.,

Defendant.

SANDRA ROBISON,

Plaintiff/Intervenor.

Civil No. 03-065-S-BLW

ACKNOWLEDGMENT OF PROTECTIVE ORDER

I, _____, [name of person signing pursuant to
paragraph 8 of the Protective Order in this action], a(n) _____ [attorney,
graphics consultant or photocopier] employed by _____ [name of
employing party], acknowledge that I have read the Protective Order entered in this action and
agree to be bound by its terms. I submit to the jurisdiction of this Court for the purpose of
enforcement of the Protective Order.

DATED this _____ day of _____, 2003.

APPENDIX B

UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF IDAHO

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,

Plaintiff,

vs.

AMERIPRIDE SERVICES INC.,

Defendant.

SANDRA ROBISON,

Plaintiff/Intervenor.

Civil No. 03-065-S-BLW

EXPERT OR CONSULTANT'S

ACKNOWLEDGMENT OF PROTECTIVE ORDER

1. My full name is _____.

2. My address is _____.

3. My present employer is _____.

4. My present occupation or job description is _____.

5. My prior regular employment or past or present regular employment with
either party to this action are: _____.

6. I also serve as an employee, agent, officer or director of the following entities: _____

7. I have received a copy of the Protective Order entered in this action. I have carefully read and understand the provisions of the Protective Order. I will comply with all of the provisions of the Protective Order.

8. I will not disclose any protected information to anyone not identified in paragraphs 8 and 9 of the Protective Order. I will use any such information only with respect to this action.

9. I will return all protected information that comes into my possession, and all documents or things which I have prepared relating to such information, to an attorney representing the party that has employed or retained me.

10. I submit to the jurisdiction of this Court for the purpose of enforcement of the Protective Order.

DATED this _____ day of _____, 2003.

United States District Court
for the
District of Idaho
September 11, 2003

* * CLERK'S CERTIFICATE OF MAILING * *

Re: 1:03-cv-00065

I certify that I caused a copy of the attached document to be mailed or faxed to the following named persons:

John F Stanley, Esq. 1-206-220-6911
US EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Seattle District Office
909 First Ave #400
Seattle, WA 98104-1061

Patricia M Olsson, Esq. 1-208-385-5384
MOFFATT THOMAS BARRETT ROCK & FIELDS
PO Box 829
Boise, ID 83701

Cynthia Jane Woolley, Esq. 1-208-788-3918
ROARK LAW FIRM
409 N Main St
Hailey, ID 83333

☒ Chief Judge B. Lynn Winmill
☐ Judge Edward J. Lodge
☒ Chief Magistrate Judge Larry M. Boyle
☒ Magistrate Judge Mikel H. Williams

Visiting Judges:

☐ Judge David O. Carter
☐ Judge John C. Coughenour
☐ Judge Thomas S. Zilly

Cameron S. Burke, Clerk

Date: 9-11-03

BY: WM
(Deputy Clerk)