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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

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Case No. CV 03-7013-TJH(RCx)

Date: August 4, 2004

Title: U.S. Equal Employment Opportunity Commission v. BSH Home Appliance Corp.

===== DOCKET ENTRY =====

PRESENT: HON. ROSALYN M. CHAPMAN, UNITED STATES MAGISTRATE JUDGE

Debra Taylor-Spears
Deputy Clerk

None
Court Reporter

ATTORNEYS PRESENT FOR PLAINTIFF:
Sue J. Noh
Carla D. Barboza

ATTORNEYS PRESENT FOR DEFENDANT(S):
Rachel Cowen

PROCEEDINGS: (1) ORDER GRANTING, IN PART, AND DENYING, IN PART, PLAINTIFF EEOC'S MOTION TO COMPEL RESPONSES TO FIRST AND SECOND SETS OF REQUESTS FOR INSPECTION AND COPYING OF DOCUMENTS; AND (2) ORDER SETTING DEPOSITION SCHEDULE

On July 7, 2004, plaintiff EEOC filed a notice of motion and motion to compel responses to plaintiff EEOC's first and second sets of requests for inspection and copying of documents and joint stipulation, with declarations and exhibits. On July 13, 2004, plaintiff EEOC filed a supplemental memorandum.

Oral argument was held before Magistrate Judge Rosalyn M. Chapman on August 4, 2004. Plaintiff EEOC was represented by Susan J. Noh, plaintiffs in intervention were represented by Carla D. Barboza, attorney at law, and defendant was represented by Rachel Cowen, attorney at law with the firm Connelly Sheehan Moran.

The Court, having read all documents and heard oral argument, **HEREBY RULES AND ORDERS:**

1. Regarding set no. 1, plaintiff EEOC's motion to compel the production of documents without redaction of Social Security numbers is denied.

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2. Regarding set no. 1, the Court does not have sufficient information to rule on plaintiff EEOC's request to compel two email documents listed on defendant's privilege log as protected by the attorney/client privilege; thus, defendant **is ordered** to produce to plaintiff EEOC, no later than August 18, 2004, a declaration or declarations supporting its claim of attorney/client privilege.

3. All privilege logs shall comply Model Form 11:A, set forth in the Rutter Group Practice Guide, Federal Civil Procedure Before Trial. All parties shall, no later than August 18, 2004, amend their privilege logs to meet this requirement.

4. All discovery responses shall be supplemented, pursuant to Rule 26(e), commencing September 1, 2004, at monthly intervals.

5. Regarding set no. 2, the Court **hereby denies** defendant's relevancy objections. In light of the pleading of Doe defendants in both the original complaint and first amended complaint, the discussion in the Rule 26(f) report of adding defendant's parent corporation and its affiliate corporation as defendants; and the lack of cut-off dates for adding parties or amending pleadings in this action, the Court finds plaintiff EEOC's requests are relevant and within the scope of Rule 26(b). Additionally, the Court finds defendant's reliance on EEOC v. Pierce Packing Co., 669 F.2d 605, 608 (9th Cir. 1982) is misplaced. See EEOC v. Bruno's Restaurant, 13 F.3d 285, 287 (9th Cir. 1993). Defendant cannot unilaterally determine whether plaintiff EEOC has met compliance requirements; rather, District Judge Terry J. Hatter, Jr., will make that determination when, and if, plaintiff EEOC moves to name as Does defendant's parent corporation and/or its affiliate corporation. See, e.g., EEOC v. Asplundh Tree Expert Co., 340 F.3d 1256, 1259 n.1 (11th Cir. 2003) (holding court may stay action pending conciliation).

6. Regarding set no. 2, the Court finds many of plaintiff EEOC's requests are overly broad, as defendant has objected. Nevertheless, the Court is able to narrow the requests so they seek only "primary" documents, rather than "secondary" documents, pertaining to defendant, its parent corporation and its affiliate corporation covering the period of 1999 to the present, and such documents include: documents pertaining to this action; fee service agreements; public documents submitted to various governmental agencies; organizational charts; leases; balance sheets; budgets; advertising agreements; training manuals; employee manuals; job descriptions for management or supervisory personnel in the buying department, engineering department, human resources department, and labor relations department; and the front page of federal tax

returns. Narrowing plaintiff EEOC's requests, the Court **grants** the motion to compel as to all requests except nos. 28 and 38, and **orders** defendant to produce responsive primary documents to plaintiff EEOC, no later than August 18, 2004. After plaintiff EEOC has examined these primary documents, it can determine whether secondary documents are required and, if so, renew its motion.

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7. Regarding plaintiff EEOC's motion to compel depositions of defendant's management employee witnesses, the Court **hereby takes off calendar** the hearing on that matter scheduled for August 18, 2004.

8. Pursuant to the stipulation of the parties, the Court **hereby orders** the depositions set forth below for defendant's present and former employees, and all of these depositions shall take place at plaintiff EEOC's offices in Los Angeles:

a. The deposition of Charlene Brown shall take place on September 7, 2004;

b. The deposition of Jan Mackay shall taken place on September 8, 2004;

c. The deposition of Ingo Holeschovsky shall take place on September 14, 2004;

d. The deposition of Mark Weifenbach shall take place on September 21, 2004;

e. The deposition of Rod Koral shall take place on October 1, 2004;

f. The deposition of John Gillespie shall take place on October 4, 2004;

g. The deposition of Stephan Lauwitz shall take place on October 5, 2004; and

h. The deposition of Frank Essig shall take place on October 12-13, 2004.

9. The parties **are ordered** to enter into a protective order, to be presented to the Court for its approval, no later than August 18, 2004.

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10. The Court **amends** Local Rule 37-1 for this action, and requires counsel to meet in person prior to filing any discovery motions.

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Initials of Deputy Clerk

