

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION

EQUAL EMPLOYMENT OPPORTUNITY	)	
COMMISSION,	)	
Plaintiff,	)	
	)	
vs.	)	1:06-cv-1083-SEB-JMS
	)	
EBY-BROWN COMPANY, LLC,	)	
Defendant.	)	

**ORDER**

Having considered the motions, responses, and replies filed by the parties, the Court hereby **GRANTS** Defendants Eby-Brown, Company, LLC's, Kevin Jones', Jeffrey Murphy's, and David Alexander's Motion to Compel Discovery, and **DENIES** the request for sanctions. The Court finds that the prior Stipulated Protective Order (Docket Entry 55) agreed to by all parties not only permitted, but required the disclosure of the information sought by Defendants. The Court will not entertain objections to the propriety of the disclosures given the parties' agreement and request for Court approval. Moreover, the Court finds the information is properly discoverable and potentially relevant to Defendant's defense that it had a legitimate non-discriminatory and non-retaliatory reason to terminate Plaintiff-Intervenor.

Accordingly, Plaintiff Equal Employment Opportunity Commission and Plaintiff-Intervenor Ahmed Conde are ordered to produce his current user names and passwords to his internet based e-mail accounts (including any accounts he had within the 60 days prior to his termination) to 24 Seven Discovere, LLC within three (3) business days of the date of the entry of this Order. Plaintiff-Intervenor is further ordered not to change any user names or password on his e-mail accounts until he is notified that 24 Seven Discovere, LLC has

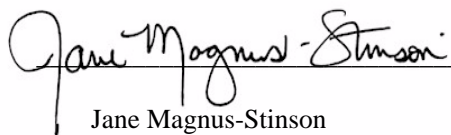
completed its review of Plaintiff-Intervenor's e-mail files. 24 Seven Discovere, LLC shall have 3 business days from receipt of the e-mail user names and passwords to conduct its search of Plaintiff-Intervenor's e-mail accounts.

Further Plaintiff-Intervenor is to make his initial disclosures to Defendants pursuant to Rule 26(a)(1) of the Federal Rules of Civil Procedure within five (5) business days of the date of the entry of this Order.

While the Court disagrees with the response to the discovery requests provided by both Conde and EEOC, the Court finds that ambiguity in the protective order and a potential misunderstanding as to the work being performed by 24 Seven Discovere, LLC at Plaintiff-Intervenor's counsel's office may have given rise to the dispute in question. The Court therefore declines to impose sanctions.

In the future the parties are encouraged to arrange a telephone status conference with the magistrate judge (following their Local Rule 37.1 conference if unsuccessful) prior to filing any disputed discovery motions.

IT IS SO ORDERED.

A handwritten signature in black ink, reading "Jane Magnus-Stinson". The signature is written in a cursive, flowing style. The first name "Jane" is written with a large, looped capital "J". The last name "Stinson" is written with a capital "S" and a trailing flourish.

Jane Magnus-Stinson  
United States Magistrate Judge  
Southern District of Indiana

06/04/2007

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