

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

FILED NOV 5 '01 PM 4 21 USDC/ALS

EQUAL EMPLOYMENT OPPORTUNITY)	CIVIL ACTION NO.
COMMISSION,)	
)	01-0087-CB-S
Plaintiff,)	
)	
v.)	
)	
BELLSOUTH TELECOMMUNICATIONS,)	
INC.)	
)	
Defendant.)	

PROTECTIVE ORDER

The parties have agreed that "Protected Documents", as defined herein, are entitled to a certain degree of protection from unregulated disclosure. However, the parties have not been able to agree on all of the terms of an appropriate Protective Order. Therefore, the parties have agreed to permit the Court to resolve the remaining areas of dispute. Each party submitted a proposed Protective Order for the Court's consideration. Having considered the arguments of counsel and examined the various proposed orders and supporting papers, the Court orders, as follows:

I. DEFINITION

1. For the purposes of this litigation, the following documents shall be considered to be "Protected Documents":
 - A. The following BellSouth Tests:

Business Management Abilities Test (BMAT)

Situational Judgment Inventory (SJI)

- B. The scoring or grading sheets associated with the above tests;
 - C. Any independent validation studies of the above tests prepared in advance of this litigation.
2. Each "Protected Document" shall be conspicuously marked "Confidential, subject to protective order." If portions of a "Protected Document" are contained in whole or in part in an otherwise unprotected document, the unprotected document shall be redacted in such a manner so as to conceal only the protected information. The remainder of the unprotected document shall not be subject to this Order.
3. A "Protected Document" shall lose the protection of this Order if Defendant fails to treat it in a manner consistent with this Order.

II. LIMITATIONS ON USE OF "PROTECTED DOCUMENTS"

The parties may fully utilize "Protected Documents" in this case subject to the following controls:

- 1. Counsel may distribute "Protected Documents" to their expert witnesses provided said experts agree in writing to maintain these documents as confidential. As agents for the parties, the experts must agree not to deliver "Protected Documents" or copies thereof to any third party without the written permission of the principal. All written agreements are to be retained by the party obtaining the consent.
- 2. Counsel may utilize the "Protected Documents" and the information contained therein with any witness, including claimants, while conducting discovery (whether

formal or informal), and in the preparation of this case for trial or appeal. However, no such witness will be permitted to keep any "Protected Document" or a copy thereof, nor may any such witness make a holographic copy of any such "Protected Document". Counsel will not disclose the scoring sheets or test answers to any witness, including the claimants in this case, unless that witness has already had access to such "Protected Document" or the information contained therein (e.g. a person responsible for scoring test results).

3. Counsel shall not reveal (orally or in writing) the contents of "Protected Documents" in response to any request from a member of the media. Documents which are filed with the court which contain references to "Protected Documents" shall be submitted in a manner so as not to compromise the protected nature of the documents.
4. Upon the conclusion of this case the EEOC agrees to archive this file in a manner such that the "Protected Documents" contained in said file are separately identified and their protected nature evident to whomever should review this case file. In addition, should the EEOC receive a request under the Freedom of Information Act or similar statute for the examination and copying of "Protected Documents", the EEOC will notify the BellSouth Legal Department at BellSouth Telecommunications, Inc., Suite 1400, 1100 Peachtree Street, Atlanta, Georgia 30309, of said request and will provide BellSouth sufficient time in which to assert whatever rights it may have to stop the disclosure of said documents. This order, however, shall not serve as a limitation or expansion upon the rights of any person or entity under the Freedom of Information Act or similar statute.

Upon the completion of this action (including all appeals and monitoring periods), all other parties to whom "Protected Documents" have been provided shall return all "Protected Documents" to counsel for Defendant. Counsel for Defendant shall be responsible for requesting the return of such documents and for all costs and expenses associated with the retrieval of said documents. Counsel for Defendant shall make its request for the return of the "Protected Documents" within ninety (90) days of the completion of this action.

5. This Order shall not limit the ability of any party or attorney to utilize, share, or disclose any knowledge or information acquired from sources or documents not labeled as required by I.2. above. Specifically, this Order shall not grant protected status to "Protected Documents" if such documents have previously been disclosed without the benefit of an existing protective order.
6. The Court retains the jurisdiction to modify this order as needed.

DONE this 5th day of NOVEMBER, 2001.



U. S. Magistrate Judge