

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

FILED

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UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

UNITED STATES EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION,

Plaintiff, and

CHERYL WILLIAMS, CHRISTINE WILLIAMS,
LEE DODD, and DONNA SIGNORILE

Plaintiff Intervenors,

v.

Case No.: 3:02-cv-910-J-20HTS

ALLIED PLASTICS COMPANY, INC.,

Defendant.

CHERYL WILLIAMS, CHRISTINE WILLIAMS,
LEE DODD, and DONNA SIGNORILE

Plaintiffs,

v.

RICK UHRIE,

Defendant

ORDER

Before the Court is Defendants' Renewed Motion to Disqualify the Equal Employment Opportunity Commission (EEOC) (Doc. No. 26, filed October 2, 2003) and Plaintiff EEOC's Response and Request for Clarification (Doc. No. 29, filed October 17, 2003). Defendants again seek to disqualify the EEOC based on the EEOC's discovery of confidential attorney-client information when interviewing Teresa Williams, a former employee of Defendant Allied Plastics.

In an Order (Doc. No. 24 September 8, 2003), the Court denied Defendants' original motion for disqualification of the EEOC, having found that the balancing of public suspicion and social interest favors not disqualifying the EEOC. The Court reached the conclusion in part, because the EEOC was not bringing a retaliation claim and thus the attorney-client information would not assist the EEOC. Plaintiff now asserts that the privileged information is assisting the EEOC, and accordingly, the balance has shifted. The Court disagrees.

Defendants assert that the privileged information assists the EEOC in bringing "retaliation like claims" and using the alleged retaliation in the sexual harassment claim. The EEOC has not gained and will not gain an evidentiary advantage from the gathering of the privileged information, and despite Defendants' assertions, the EEOC also has not gained any strategical or tactical advantage from the information. A review of the notes from the interview of the former employee, whose statements contain confidential information, reveals several non-privileged statements that indicate the possibility of retaliation. For instance, the former employee stated that the managers wanted her to observe the intervenor plaintiffs' "little irritating things that had nothing to do with their performance." Also she was told to spy and monitor the intervenor plaintiffs. The confidential information does not provide the EEOC with a theory or strategy that it did not previously have or would have gathered from non-privileged sources.

As the balancing of public suspicion and social interest has not changed, Defendants' Motion is **DENIED**.

The EEOC's request for clarification of any limits on discovery imposed by the Order of September 8, 2003 is **DENIED WITHOUT PREJUDICE**. The Court is unaware of any limits on discovery imposed by that Order and is thus unable to clarify.

Related to the Motion to Disqualify are Defendants' Motion to Stay Discovery (Doc. No. 25, filed October 2, 2003), Defendants' Motion for Entry of Protective Order (Doc. No. 27, filed October 17, 2003), and Plaintiff EEOC's Response in Opposition to Defendants' Motion to Stay Discovery (Doc. No. 28, filed October 17, 2003). As Defendants' Motions are predicated on the Motion to Disqualify, which has been denied, Defendants' Motion to Stay and Motion for Entry of Protective Order are **DENIED** as **MOOT**.

DONE AND ENTERED at Jacksonville, Florida, this 4th day of November, 2003.


HARVEY E. SCHLESINGER
United States District Judge

Copies to:

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F I L E C O P Y

Date Printed: 11/05/2003

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