

FILED

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION**

2004 APR 15 PM 3:12

U.S. DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO, FLORIDA

**UNITED STATES EQUAL
EMPLOYMENT OPPORTUNITY
COMMISSION,**

Plaintiff,

-vs-

Case No. 6:02-cv-1112-Orl-28DAB

FEDERAL EXPRESS CORPORATION,

Defendant.

ORDER

This cause came on for consideration without oral argument on the following motion filed herein:

MOTION: MOTION FOR PROTECTIVE ORDER (Doc. No. 28)

FILED: March 29, 2004

THEREON it is ORDERED that the motion is DENIED in part.


Defendant seeks to prohibit the taking of a deposition with respect to its financial worth, as being an undue burden and an annoyance. Both sides acknowledge that the issue of Defendant's finances is relevant in the context of a punitive damages claim, but Defendant argues that it has already provided copies of recent annual reports for the company, which show significant assets. Defendant submits that, as it is indisputable that it "is financially capable of satisfying a judgment in this case," further discovery on the matter is pointless. This is especially so, argues Defendant, as Title VII contains a statutory cap on any punitive damage award.

Plaintiff submits that the discovery does not go to whether Defendant can satisfy the judgment, but to what that judgment should be. Plaintiff fears that Defendant will rely at trial on “some obscure footnote” to somehow confuse the jury, and thus, seeks a deposition to “clearly interpret” the financial statements in the annual reports¹. As for the cap, Plaintiff points out that the jury is prohibited from being informed of the cap, and it is therefore irrelevant to discovery issues.

Thus, it appears that both sides agree that the *information* is relevant and discoverable, but Defendant seeks to control the method of discovery of that information. The issue is whether the burden and annoyance of a deposition designed to elicit admittedly relevant information constitutes “good cause” to prevent it, under Federal Rule of Civil Procedure 26(c). This Court finds that it does not. Nonetheless, it is evident that Plaintiff has exaggerated the appropriate scope and importance of financial information in presenting a claim for punitive damages. The Court will not permit, at trial or in discovery, an extended exploration of all aspects of the Defendant’s finances. The development and presentation of sufficient summary information to allow the jury to make the appropriate determinations should be a negligible aspect of this litigation. Indeed, in most cases, counsel are able to craft an acceptable stipulation that narrow or eliminate the contested issues regarding net worth or financial status. Because the parties have apparently failed to do so here, the Court will allow the deposition to go forward, limited in time to 30 minutes. The Court reminds counsel that all sides are under a duty to proceed in good faith in this matter, and the Court will not hesitate to impose sanctions for either overreaching or for failing to facilitate discovery.

¹This scenario seems somewhat fanciful since any such attempt by the Defendant would most likely be adversely construed by the jury.


DONE and **ORDERED** in Orlando, Florida this 15th day of April, 2004.



DAVID A. BAKER
UNITED STATES MAGISTRATE JUDGE

Copies furnished to:

Counsel of Record


4-16-04

F I L E C O P Y

Date Printed: 04/16/2004

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