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UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

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CLERK, U.S. DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA, FLORIDA

EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION,

Plaintiff,

vs.

CASE NO.: 99-CV-1371-T-17A

RIO BRAVO INTERNATIONAL, INC.,
and INNOVATIVE RESTAURANT
CONCEPTS, INC., and APPLEBEE'S
INTERNATIONAL, INC., d/b/a RIO
BRAVO CANTINA,

Defendants.

_____ /

ORDER

THIS CAUSE is again before the Court on Plaintiffs' Emergency Motion to Compel (doc. 25)¹ and Defendant's response thereto (doc. 32). Plaintiff Equal Employment Opportunity Commission ("EEOC") filed this sexual harassment case against Defendants on July 6, 1999. Shortly thereafter, Sheri Calvo, Veronica Ferek, and Melissa Scarborough ("Intervenors") served a Motion to Intervene as Plaintiff Intervenors. At this juncture, the Intervenors served a copy of a notice of deposition and a subpoena duces tecum on John Moore, Vice President of Human Resources for Rio Bravo.² Upon receiving a copy of the

¹ This Court previously entered an Order finding that Plaintiff's motion was not an *emergency* and postponing resolution of this matter until Defendant had an opportunity to respond to the motion (doc. 28).

² The Notice of Taking Video Deposition Duces Tecum (attached to doc. 25) fails to indicate that Moore will be deposed under Fed.R.Civ.P. 30(b)(6). Accordingly, the Court treats the Intervenors' notice as naming Moore to be deposed in his individual capacity rather than as an officer designated on behalf of Rio Bravo under Rule 30(b)(6).

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notice of deposition, Defendant filed objections to the documents sought in the subpoena duces tecum. In response, Intervenors have filed the instant motion seeking entry of an order requiring Moore to produce documents at his deposition pursuant to the subpoena duces tecum.³

Defendant claims the Intervenors should have used either a Request for Production under Fed.R.Civ.P. 34 or a Fed.R.Civ.P. 30(b)(6) deposition of a corporate representative to obtain the documents requested by the Moore duces tecum. I agree that Moore, in his individual capacity, is not responsible for producing corporate documents. Accordingly, I find that Moore should produce all non-corporate documents responsive to the Intervenors' requests that are in his possession, custody or control that are not protected by the attorney-client privilege and are not work product.

It is hereby

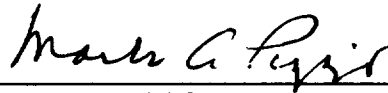
ORDERED that:

1. Plaintiffs' Emergency Motion to Compel is GRANTED (doc. 25) only to the extent that Moore is directed to produce non-corporate documents responsive to the Intervenors' requests that are in his possession, custody or control that are not protected by the attorney-client privilege and are not

³ Originally, Mr. Moore's deposition was scheduled for May 19, 2000. However, counsel for Intervenors has advised the Court that Mr. Moore's deposition has since been cancelled and rescheduled for August 8, 2000.

work product.

DONE AND ORDERED in chambers at Tampa, Florida on this 19 day of July,
2000.



MARK A. PIZZO
UNITED STATES MAGISTRATE JUDGE

Copies to: Counsel of Record