IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,

Plaintiff,

and

DIANE CANTU,

Plaintiff-Intervenor,

v.

INTOWN SUITES MANAGEMENT, INC.,

Defendant.

CIVIL ACTION FILE
NO. 1:03-CV-1494-RLV

OMNIBUS ORDER

I. Background

The Equal Employment Opportunity Commission (hereafter the "EEOC") filed this action on May 27, 2003, alleging that defendant, InTown Suites Management, Inc. (hereafter "InTown") discharged Ms. Diane Cantu because she had (1) opposed its unlawful employment practices and (2) filed a charge of discrimination. EEOC Compl. [1] at 4. The EEOC contends that InTown's action violated the anti-retaliation provision of Title VII of the Civil Rights Act of 1964,

as amended, 42 U.S.C. § 2000e-3(a). The EEOC also alleges that InTown failed to file EEO-1 reports in violation of Title VII. EEOC Compl. [1] at 4 (citing 42 U.S.C. § 2000e-8(c)).

Ms. Cantu filed an unopposed Motion to Intervene on June 2, 2003 [2], which was granted by this Court in an Order entered July 11, 2003 [6]. Ms. Cantu's Complaint in Intervention [7] alleges that she was fired for opposing InTown's unlawful employment practices and for filing a charge of discrimination. Cantu Compl. [7] at 5-6. Ms. Cantu's alleged opposition to defendant's unlawful employment practices was expressed in a September 1, 2001, e-mail to InTown management. Id. at 4-5. Ms. Cantu filed her EEOC charge on September 14, 2001. She alleges that she was terminated that same day, immediately after she presented InTown management with a copy of her charge. Id. at 5. In harmony with the EEOC's allegations, Ms. Cantu alleges that InTown's actions violated Title VII's anti-retaliation provision. Id. However, Ms. Cantu adds two items not alleged in the EEOC's Complaint: (1) a retaliation claim under 42 U.S.C. § 1981, see id. at 6-7, and (2) the allegation that InTown has engaged in a "systemic pattern of nationwide racial discrimination against people of color." Id. at 1, 6. However, Ms. Cantu is Caucasian and does not allege that she was the victim of racial discrimination.

The parties engaged in discovery but encountered a dispute that generated the instant Motions to Compel from both Ms. Cantu [24] and the EEOC [25]. Because of the delay occasioned by resolution of these Motions, plaintiffs seek an extension of the discovery period [24, 25], while InTown seeks an extension of the deadline to file dispositive motions [36].

II. The Instant Dispute and the Parties' Contentions

InTown refused to answer some or all of five interrogatories and three requests for production that sought the following information and/or documents:

(1) complaints or reports defendant received of racial discrimination (EEOC's Interrog. Nos. 1-2 & EEOC's Doc. Req. No. 1);

(2) defendant's investigation of any complaints or reports of racial discrimination it received (EEOC's Doc. Req. No. 2);

(3) complaints defendant received about any aspect of its hiring practices (Cantu's Doc. Req. No. 4);

(4) racial information on applicants for managerial positions with defendant (Cantu's Interrog. No. 12); and

(5) racial information about defendant's managerial workforce (EEOC's Interrog. No. 10 and Cantu's Interrog. No. 5).

The above-listed discovery was limited temporally to Ms. Cantu's period of employment (April 1, 1999, through September 15, 2001), with the exception of one (Cantu Req. for Prod. No. 4), which has no temporal limitation. Moreover, half of the disputed discovery was limited geographically to InTown's Georgia facilities (EEOC's Interrog. No. 10, Cantu's Interrog. Nos. 5 and 12, and Cantu's Req. for Prod. No. 4), with the other half seeking nationwide data.

Although defendant asserted geographic and temporal objections, defendant's primary objection to answering the disputed discovery is its purported lack of relevance. Because retaliation is the only substantive claim alleged, InTown asserts that information and documents concerning race, whether reflected in complaints of racial discrimination or their investigation, complaints about its hiring practices, the race of its applicants, or the race of its managerial workforce, are not relevant and are not reasonably calculated to lead to the discovery of admissible evidence. Def.'s Opp'n to EEOC's Mot. to Compel [31] at 3-16; Def.'s Opp'n to Cantu's Mot. to Compel [30] at 3-15. Defendant seeks an Order from this Court requiring plaintiffs to pay its reasonable expenses incurred in defending against the instant Motions. Def.'s Opp'n to EEOC's Mot. to Compel [31] at 17; Def.'s Opp'n to Cantu's Mot. to Compel [30] at 16.

The EEOC moves to compel because it contends that information about complaints or reports of racial discrimination received by defendant (and related documents) are relevant to show that Ms. Cantu engaged in statutorily protected expression and that her opposition to defendant's alleged illegal practices was objectively reasonable. EEOC's Mot. to Compel [25] at 6-7, 13-15 (addressing EEOC's Interrog. Nos. 1-2 & EEOC's Doc. Req. Nos. 1-2); see also Cantu's Mot. to Compel [24] at 12-14 (addressing EEOC's Doc. Req. Nos. 1-2). The EEOC also asserts that it requires information about the race of defendant's managers for the above-mentioned reasons, and because defendant failed to file EEO-1 reports. The EEOC contends that the requested information will help it evaluate the accuracy of defendant's EEO-1 data if it is ever filed. EEOC's Mot. to Compel [25] at 11-12 (addressing EEOC's Interrog. No. 10). The EEOC also seeks sanctions under Fed. R. Civ. P. 37(a)(4). Id. at 16-17.

Ms. Cantu moves to compel production of information about the racial composition of defendant's managerial workforce; she contends that defendant's objection deprives her of the opportunity to prove that minority applicants were discriminated against. Cantu's Mot. to Compel [24] at 8-9 (addressing Cantu's

Interrog. No. 5).[1] She also moves to compel information about minority applicants for managerial positions; she contends that this information is needed to show that she had a reasonable belief that InTown was discriminating in hiring on the basis of race nationwide, and to impeach the Company's sworn testimony that it did not discriminate. Cantu's Mot. to Compel [24] at 6, 10-12 (addressing, inter alia, Cantu's Interrog. No. 12). Finally, Ms. Cantu moves to compel documents relating to complaints defendant received about its hiring policies; she contends that such discovery may reveal probative evidence regarding the company-wide discrimination she alleges to exist. Cantu's Mot. to Compel [24] at 15-17 (addressing Cantu's Doc. Req. No. 4). Unlike the EEOC, Ms. Cantu does not seek sanctions.

The EEOC also moves to compel defendant to produce a privilege log, pointing to both the requirements of Fed. R. Civ. P. 26(b)(5) and the text of EEOC's

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[1] Ms. Cantu claims that she formed her belief about InTown's alleged racially discriminatory hiring practices from her work in Dallas, Texas, with Regional Manager Leif Hartkopf (who was responsible for the eastern portion of the United States), from talking with Property Manager Libby Walker (who worked in Florida and Kentucky), and from conversations with InTown's Chief Operating Officer, Ms. Cheryl Vickers (who was responsible for operations nationwide). Cantu's Mot. to Compel [24] at 10-11. However, Ms. Cantu does not identify a particular minority applicant that she claims was rejected by InTown for unlawful reasons.

Interrogatory No. 14, which asked InTown to provide specific information about "every document withheld from Plaintiff in this case." EEOC's Mot. to Compel [25] at 12-13.[2] In response, defendant asserts that it did not have to produce a privilege log because no responsive documents were withheld (although defendant states that witness statements constituting attorney work product have recently been obtained and will be listed on a privilege log).

III. Analysis of Plaintiffs' Motions to Compel

Federal Rule of Civil Procedure 26(b)(1) permits discovery into "any matter, not privileged, that is relevant to the claim or defense of any party." Fed. R. Civ. P. 26(b)(1). Until December 2000, Fed. R. Civ. P. 26(b)(1) provided for discovery "regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action." The Rule was amended to focus the parties and the court "on the actual claims and defenses involved in the action." See 2000 Amendment Advisory Committee Notes to Fed. R. Civ. P. 26(b)(1); see also Sanyo Laser Prods., Inc. v. Arista Records, Inc., 214 F.R.D. 496, 498 (S.D. Ind. 2003) ("The purported purpose of the amendment was . . . to narrow the scope of

[2] Although Ms. Cantu also moved to compel production of a privilege log, she has withdrawn that part of her Motion. Cantu's Reply Br. [37] at 9.

discovery . . . ."). But see Graham v. Casey's Gen. Stores, 206 F.R.D. 251, 253 (S.D. Ind. 2002) ("Even after the recent amendment to Federal Rule of Civil Procedure 26, courts employ a liberal discovery standard.").

After the 2000 amendment, Rule 26 contains the following statement: "For good cause shown, the court may order discovery of any matter relevant to the subject matter involved in the action." Fed. R. Civ. P. 26(b)(1). Thus, according to a respected treatise,

> The amendment did not change the overall scope of the court's authority to order discovery, but it did alter the scope of discovery available as a matter of right to attorneys without court authorization. Thus, attorney-managed discovery is now limited to matters "relevant to the claim or defense of any party." Discovery that is not relevant to any claim or defense in the action but does relate to the subject matter of the case can be had, but only on court order based on a showing of good cause.

8 Charles Alan Wright, Arthur R. Miller & Richard L. Marcus, Federal Practice and Procedure § 2008 (2d ed. Supp. 2003).

Although standards for discovery in Title VII cases are no different than in other federal cases, courts have noted that "liberal civil discovery rules give plaintiffs [in civil rights cases] broad access to employers' records in an effort to document their claims." Wards Cove Packing Co. v Atonio, 490 U.S. 642, 657

(1989), superseded by statute on other grounds, Civil Rights Act of 1991, § 105, 105 Stat. 1074-1075, 42 U.S.C. § 2000e-2(k). However, the scope of discovery in Title VII cases is not without limits. See Parliament House Motor Hotel v. EEOC, 444 F.2d 1335, 1339 (5th Cir. 1971) (plaintiff cannot engage in "wholesale fishing expedition"). Discovery must be tailored to the issues involved in the particular case, Washington v. Brown & Williamson Tobacco Corp., 959 F.2d 1566, 1570 (11th Cir. 1992), and limited to the employment practices at issue. Robbins v. Camden City Bd. of Educ., 105 F.R.D. 49, 55 (D.N.J. 1985) (plaintiff alleging race and age discrimination not allowed discovery of information relating to sex, religion, or national origin discrimination), cited favorably in Washington, 959 F.2d at 1570. Finally, current Rule 26(b)(1) requires that the discovery be relevant to the claim or defense of any party.

Rule 26(b)(1) thus necessitates an inquiry into the concept of relevancy and an understanding of the parties' claims and defenses. Relevancy is not defined in the Federal Rules of Civil Procedure. However, the Supreme Court has held that relevancy is "construed broadly to encompass any matter that bears on, or that reasonably could lead to other matter that could bear on, any issue that is or may be in the case." Oppenheimer Fund, Inc. v. Sanders, 437 U.S. 340, 351 (1978).

Moreover, relevancy is defined in evidentiary terms by the Federal Rules of Evidence. "'Relevant evidence' means evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence." Fed. R. Evid. 401. "Evidence which is not relevant is not admissible." Fed. R. Evid. 402. Even though relevant evidence sought through discovery does not itself have to be admissible at trial, "the information must be such as would lead to admissible evidence." Jenkins v. Campbell, 200 F.R.D. 498, 501 (M.D. Ga. 2001); see also Fed. R. Civ. P. 26(b)(1) ("Relevant information need not be admissible at the trial if the discovery appears reasonably calculated to lead to the discovery of admissible evidence."). Thus, the standard for discovery is more liberal than the standard for admissibility. Fin. Bldg. Consultants, Inc. v. Am. Druggists Ins. Co., 91 F.R.D. 59, 61 (N.D. Ga. 1981) ("[I]t is the court's view that what is relevant during pretrial discovery and what is admissible during trial are two different things, the former being broader than the latter.").

Against the backdrop of the preceding discussion, the Court examines the disputed discovery to determine whether it is relevant to the claims or defenses of any party. The Court begins with plaintiffs' claims. Although Ms. Cantu's

Complaint alleges that defendant engaged in a nationwide pattern of discrimination against racial minorities, the only claim actually asserted by Ms. Cantu and the EEOC is one for retaliation. Title VII's anti-retaliation provision recognizes two types of statutorily protected conduct:

> An employee is protected from discrimination if (1) "he has opposed any practice made an unlawful employment practice by this subchapter" (the opposition clause) or (2) "he has made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this subchapter" (the participation clause).

Clover v. Total Sys. Servs., Inc., 176 F.3d 1346, 1350 (11th Cir. 1999) (quoting 42 U.S.C. § 2000e-3(a)).

According to the Complaints, Ms. Cantu was discharged in retaliation for opposing defendant's alleged unlawful employment practices (i.e., its refusal to hire minorities for management jobs) and for filing a charge of discrimination with the EEOC. Thus, she asserts claims under both the opposition and participation clauses. However, the instant dispute relates only to plaintiff's opposition clause claim. "[A] plaintiff can establish a prima facie case of retaliation under the opposition clause of Title VII if he shows that he had a good faith, reasonable belief that the employer was engaged in unlawful employment practices." Little v. United Techs., Carrier

Transicold Div., 103 F.3d 956, 960 (11th Cir. 1997). According to Little, this prima facie case has both subjective and objective components:

> A plaintiff must not only show that he subjectively (that is, in good faith) believed that his employer was engaged in unlawful employment practices, but also that his belief was objectively reasonable in light of the facts and record presented. It is thus not enough for a plaintiff to allege that his belief in this regard was honest and bona fide; the allegations and record must also indicate that the belief, perhaps mistaken, was objectively reasonable.
>
> A plaintiff, therefore, need not prove the underlying discriminatory conduct that he opposed was actually unlawful in order to establish a prima facie case and overcome a motion for summary judgment; such a requirement "[w]ould chill the legitimate assertion of employee rights under Title VII but would tend to force employees to file formal charges rather than seek conciliation of informal adjustment of grievances."

Id. (alteration in original).

The Eleventh Circuit has also explained that the "objective reasonableness of an employee's belief that her employer has engaged in an unlawful employment practice must be measured against existing substantive law." Clover, 176 F.3d at 1351 (citing Harper v. Blockbuster Entm't Corp., 139 F.3d 1385, 1388 n.2 (11th Cir. 1998)). The conduct opposed need not actually constitute an unlawful employment practice, "but it must be close enough to support an objectively reasonable belief that it is." Id. However, the Eleventh Circuit draws the following distinction:

> For opposition clause purposes, the relevant conduct does not include conduct that actually occurred . . . but was unknown to the person claiming protection under the clause. Instead, what counts is only the conduct that person opposed, which cannot be more than what she was aware of. Additional conduct or allegations or allegations unknown to the opposing person are not relevant to the opposition clause inquiry.

Id. at 1352.

Given the opposition-clause cases reviewed to this point, defendant's argument that the discovery sought is irrelevant to plaintiffs' claims has some facial appeal. Plaintiffs are not suing for race discrimination but for retaliation; therefore, discovery about complaints of racial discrimination, complaints about defendant's hiring practices, and the racial composition of its managerial applicants and employees should not be allowed, given that plaintiff need not prove the underlying race discrimination claim. See Holston v. Sports Auth., Inc., 136 F. Supp. 2d 1319, 1336 (N.D. Ga. 2000) ("It is irrelevant to the retaliation claim whether the plaintiff can prove an underlying claim of [racial] discrimination."), aff'd mem., 251 F.3d 164 (11th Cir. 2001); Lockaby v. United Testing Group, Inc., 986 F. Supp. 1400, 1403 n.3 (N.D. Ga. 1997) ("The validity of plaintiff's accusation [that racial and national discrimination occurred in defendant's hiring and employment practices] is of little importance to this [retaliation] action.") (citing Little, 103 F.3d at 960).

Defendant's position is strengthened by the fact that Ms. Cantu was unaware of the evidence she now seeks when she opposed defendant's allegedly unlawful employment practices. See Hudson v. Norfolk S. Ry. Co., 209 F. Supp. 2d 1301, 1314 (N.D. Ga. 2001) ("In reviewing a retaliation claim, the Court must consider the evidence available to plaintiff at the time she expressed her opposition and not consider new facts developed in discovery.").[3]

However, Rule 26(b)(1) allows discovery that is relevant to the claim or defense of any party. Thus, the Court must also determine whether InTown's defenses make the requested discovery relevant. Moreover, the Court must determine whether the requested discovery is relevant given plaintiffs' other possible uses for it, such as for impeachment. See Wright, supra, § 2008 ("[I]nformation that could be used to impeach a likely witness, although not otherwise relevant to the claims or defenses, might be properly discoverable.") (quoting Advisory Committee Notes).

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[3] The Court is also not persuaded that the disputed discovery is relevant to the EEOC's claim that defendant failed to file EEO-1 reports. Because the data sought on managerial applicants and employees is different from the data reflected on an EEO-1, the disputed discovery could not verify or disprove defendant's EEO-1 reports.

In its Answer to the EEOC's Complaint, InTown denies the allegations of retaliation and asserts the affirmative defense that Ms. Cantu did not oppose the allegedly unlawful practices of defendant in such a manner as to be entitled to protection from alleged retaliation. Answer to EEOC's Compl. [4] at 2-3. InTown also asserts the affirmative defense that its termination of plaintiff was based on legitimate, reasonable, good-faith, non-discriminatory and non-retaliatory reasons. Id. at 3.

In its Answer to Ms. Cantu's Complaint, InTown denies the allegation that it instructed plaintiff not to hire people of color into management. Answer to Cantu's Compl. [14] at 3. InTown admits that plaintiff wrote an e-mail to a member of management on September 1, 2001. Id. at 3. After denying the remainder of Ms. Cantu's allegations about her opposition to unlawful practices expressed in that e-mail, InTown adds the following assertion: "Furthermore, when Plaintiff-Intervenor Cantu made her claims of discrimination, Defendant conducted an immediate investigation which resulted in the conclusion that Plaintiff-Intervenor Cantu's claims were frivolous, unreasonable, and groundless." Id.

InTown repeats many of the same affirmative defenses to Ms. Cantu's Complaint that it asserted to the EEOC's Complaint, but adds the following:

"Plaintiff-Intervenor Cantu was a member of management who was responsible for hiring and who was expected to administer and enforce Defendant's policies on equal employment opportunity. Any alleged discrimination was caused by or contributed to by Plaintiff-Intervenor Cantu." Answer to Cantu's Compl. [14] at 5.

In its portion of the Joint Preliminary Report and Discovery Plan [12], InTown outlines its factual defense to plaintiffs' claim. InTown repeats its assertion that it began an investigation of plaintiff's allegation that it was engaged in unlawful hiring practices on September 1, 2001, after receiving Ms. Cantu's e-mail, id. at 5, and states that on September 6, 2001, it responded to plaintiff's allegations about the hiring of minority managers. Id. Further, defendant contends that on September 5, 2001, an InTown manager reported that Ms. Cantu had asked her to recruit unqualified minorities to apply for managerial positions with defendant so that Ms. Cantu could use their rejections as evidence in a suit against InTown. Id. at 6. Defendant contends that plaintiff was subsequently fired for disloyalty. Id. at 7.

Finally, at the Fed. R. Civ. P. 30(b)(6) deposition of InTown's corporate representative on October 23, 2003, defendant asserted that none of Ms. Cantu's allegations regarding defendant's unlawful hiring practices was true and maintained

that it did not discriminate against minorities in hiring. Cantu's Mot. to Compel [24] at 5 (citing Vickers Dep. at 181-210).

As reflected in the above-cited sources, InTown's defense is that it investigated Ms. Cantu's allegations into its hiring practices, found them to be untrue, and terminated her for continued disloyalty, which included falsely reporting allegations of racially discriminatory hiring and manipulating applicant flow to create the appearance of impropriety.

InTown's defense makes the information and documents that plaintiffs seek relevant and thus discoverable. A good-faith belief by defendant in the falsity of Ms. Cantu's allegations is essential to defendant's legitimate, non-retaliatory reason for her discharge. Cf. Elrod v. Sears, Roebuck & Co., 939 F.2d 1466, 1470 (11th Cir. 1991) (inquiry is not whether employee is guilty of misconduct, but whether employer in good faith believed employee had done wrong and whether this belief was the reason for the termination). Defendant's good faith may be judged in part by the investigation it conducted.[4] The requested discovery is similar to the universe

[4] The Court is unaware of whether a written report of this investigation exists. If it does exist, then the Court assumes that InTown has disclosed it. See L.R. 26.1, N.D. Ga.; see also Fed. R. Civ. P. 26(a)(1). However, such a document has not been listed in Defendant's Initial Disclosures [10], Attach. C. The Court notes that defendant lists Cheryl Vickers, Rick Fee, and David Killebrew as persons with

of information and documents a reasonable in-house investigator would have reviewed to determine if minorities were being excluded from management for unlawful reasons. The information and documents plaintiffs have requested may allow them to determine whether defendant's investigation discovered facts from which an employer could form a good-faith belief that Ms. Cantu was lying or manipulating applicant flow for her own ulterior motives. Or, the information and documents requested may also allow plaintiffs to show that defendant's investigation was a sham and a pretextual excuse to terminate her. In sum, the requested discovery will provide plaintiffs with an independent source to judge the accuracy and/or completeness of defendant's investigation.

Finally, the requested information and documents are relevant for impeachment purposes. Plaintiffs can use it to test contentions by defendant's Rule 30(b)(6) witness that the internal investigation showed that plaintiff's allegations were false and that it did not engage in systemic racial discrimination in hiring.

Therefore, plaintiffs' Motions to Compel [24, 25] are **GRANTED**. Within fifteen days of the date of this Order, defendant is ordered to produce

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knowledge of "the Company's investigation of Ms. Cantu's allegations." Id. Attach. B. Presumably, plaintiffs have deposed these individuals about that investigation.

(1) race-related information and documents responsive to the EEOC's Interrogatories (Nos. 1-2, and 10) and the EEOC's Request for Production of Documents (Doc. Req. Nos. 1-2) and

(2) race-related information and documents responsive to Ms. Cantu's Interrogatories (Nos. 5 and 12) and Ms. Cantu's Request for Production of Documents (Doc. Req. No. 4).

The Court sustains defendant's temporal objection to Ms. Cantu's Document Request No. 4. Defendant may limit its response to plaintiff's dates of employment at InTown. However, given the allegation that defendant engaged in nationwide systemic hiring discrimination, see supra note 1, and InTown's failure to show that nationwide production of information and/or documents would be unduly burdensome, the Court overrules the geographic-scope objection that defendant asserted to the EEOC's Interrogatory No. 10, and to Ms. Cantu's Interrogatory Nos. 5 and 12 and Document Request No. 4.

The Court accepts defendant's contention that, at the time the plaintiffs filed their Motions, and given their objections, it was not obligated to produce a privilege log. Therefore, the Court does not compel production of a privilege log.[5]

IV. Remaining Motions

Given the Court's decision to order production of additional information and documents, the EEOC's Motion to Extend the Discovery Period for Forty-Five Days Beyond This Court's Entry of an Order Resolving This Discovery Dispute [25] and Ms. Cantu's Request for an Extension of the Discovery Period [24] are **GRANTED**; discovery is extended up through and including March 31, 2004.

As for the EEOC's Request for Sanctions [25], Rule 37(a)(2)(B) of the Federal Rules of Civil Procedure allows a party to move for an order compelling discovery if a party fails to answer an interrogatory submitted under Rule 33 or fails to produce documents requested under Rule 34. Rule 37(a)(4)(A) provides:

> If the motion [to compel] is granted . . . , the court shall, after affording an opportunity to be heard, require the party . . . whose conduct necessitated the motion or the party or attorney advising such conduct or both of them to pay to the moving party the reasonable expenses

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[5] Defendant submitted a privilege log [56] on February 2, 2004. Should privileged documents be among those that are responsive to the discovery ordered herein, defendant shall amend its privilege log within fifteen days of the date of this Order.

> incurred in making the motion, including attorney's fees, unless the court finds that . . . the opposing party's nondisclosure, response, or objection was substantially justified, or that other circumstances make an award of expenses unjust.

Despite defendant's failure to answer the disputed interrogatories and document requests, the Court finds, as previously noted, that defendant's objections were substantially justified. See Devaney v. Cont'l Am. Ins. Co., 989 F.2d 1154, 1163 (11th Cir. 1993) (substantial justification found if in response to genuine dispute or if reasonable people could differ as to propriety of contested action).

Finally, given that the Court has extended the discovery period, InTown's Motion to Extend the Dispositive Motion Deadline [36] is **GRANTED**; dispositive motions will be due twenty days after the close of the extended discovery period.

V. Conclusion

For the reasons stated above, the Court **ORDERS** as follows:

Ms. Cantu's Motion to Compel [24] is **GRANTED**;

the EEOC's Motion to Compel [25] is **GRANTED**;

the EEOC's Motion to Extend the Discovery Period for Forty-Five Days Beyond This Court's Entry of an Order Resolving This Discovery Dispute [25] and

Ms. Cantu's Request for an Extension of the Discovery Period [24] are **GRANTED**; discovery is extended up through and including March 31, 2004;

the EEOC's Request for Sanctions [25] is **DENIED**;

InTown's Motions for Expenses [30, 31] are **DENIED**; and

InTown's Motion to Extend the Dispositive Motion Deadline [36] is **GRANTED**; dispositive motions shall be due twenty days after the close of the extended discovery period.

SO ORDERED, this 9th day of February, 2004.

WALTER E. JOHNSON
UNITED STATES MAGISTRATE JUDGE

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