

Mon

U. S. DISTRICT COURT
 WESTERN DISTRICT OF LOUISIANA
FILED

MAR - 7-2002

ROBERT H. SHEWELL, CLERK
 BY _____ DEPUTY

IN THE UNITED STATES DISTRICT COURT
 FOR THE WESTERN DISTRICT OF LOUISIANA
 MONROE DIVISION

**EQUAL EMPLOYMENT
 OPPORTUNITY COMMISSION**

VERSUS

**K & B LOUISIANA CORPORATION
 d/b/a RITE AID**

- * CIVIL ACTION NO. 00-2238
- * JUDGE ROBERT G. JAMES
- * MAGISTRATE JUDGE HAYES

RULING AND ORDER¹

Before the undersigned Magistrate Judge is a Motion to Quash a 30(b)(6) Notice of Deposition and/or for a Protective Order (Document #76). For reasons stated below the motion is GRANTED.

Defendant K & B Louisiana Corporation d/b/a Rite Aid ("Rite Aid"), noticed a 30(B)(6) deposition of the EEOC seeking testimony and documentation regarding the EEOC's investigation into this matter prior to filing suit. The EEOC has moved to quash and for a protective order on the bases that the reasons for the issuance of the 30(B)(6) notice of deposition are simply (1) to re-litigate issues already decided by the Court in two previous denials of defendant's motions for summary judgment; (2) to harass the Commission in retaliation for the Commission having subpoenaed an attorney in defendant's firm; (3) to challenge the EEOC's investigation through obtaining testimony that is either irrelevant or inadmissible; and (4) to obtain written discovery outside of the written discovery deadline. As the discovery deadline was extended by the court, the

¹As this is not one of the motions excepted in 28 U.S.C. §636(b)(1)(A), nor dispositive of any claim on the merits within the meaning of Rule 72 of the Federal Rules of Civil Procedure, this ruling is issued under the authority thereof, and in accordance with the standing order of this court. Any appeal must be made to the district judge in accordance with Rule 72(a) and L.R. 74.1(W).

ff

fourth reason need not be considered.

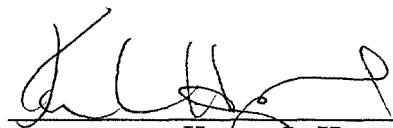
In ruling on the defendant's motion for summary judgment, the court specifically found that it could not grant summary judgment because the EEOC had produced direct evidence of discrimination. Thus, this court has already ruled that there is direct evidence of discrimination which will need to be considered by a jury. Rite Aid has presented insufficient grounds for deposing the EEOC's representative. The information they seek i.e., what information was or should have been available to the EEOC through a reasonable investigation, appears to be available from other sources.

In addition, the undersigned has reviewed *in camera* all of the materials for which the EEOC claims privilege, and finds that the materials are either irrelevant or are privileged, constituting attorney work product, and/or attorney-client communications. Furthermore, the documents contain no information which could possibly support a claim that the plaintiff was unjustified in pursuing this action. Finally, defendant's broad discovery requests implicate documentation which has already been provided or which is as readily available to the defendant as to the plaintiffs (such as statutes, regulations, and case law).

The defendant has pointed to no underlying factual material which has not been provided to it which bears on the EEOC's proof of its allegations in this matter. Therefore, the Motion for Protective Order and/or to Quash is hereby GRANTED.

THUS DONE AND SIGNED at Monroe, Louisiana, this 6th day of March, 2002.

COPY SENT:
DATE: 3-7-02
BY: OP
TO: Butler
Fagan
Chen
RJD
KLH


KAREN D. HAYES
UNITED STATES MAGISTRATE JUDGE