

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF LOUISIANA

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U.S. DIST. COURT  
MIDDLE DIST. OF LA.

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EQUAL EMPLOYMENT  
OPPORTUNITY COMMISSION

CIVIL ACTION  
by DEPUTY CLERK

VERSUS

SPECIALIZED INDUSTRIAL MAINTENANCE

NO. 99-365-C-M2

RULING AND ORDER

This matter is before the Court on three motions: (1) The defendant's Motion to Quash Subpoenas and Notices of Deposition and Requests for Production of Documents (R. Doc. 13), (2) a related Motion for Expedited Consideration (R. Doc. 15) and (3) plaintiff's Motion to Compel (R. Doc. 9). The motions to quash and for protective order are opposed.<sup>1</sup>

The case involves a claim by the U.S. Equal Employment Opportunity Commission under Title VII of the Civil Rights Act of 1964. The EEOC claims that defendant Specialized Industrial Maintenance violated the civil rights of Mary Smith by denying her a job as a welder because of her sex.

**(1) Defendant's motion to quash.**

The defendant seeks protection from several document requests the EEOC has made in both requests for production of documents and subpoenas duces tecum. The Court will address each area of inquiry specifically:

<sup>1</sup> On February 7, 2000, the EEOC filed a motion for leave to file a reply memorandum within 10 days of the date the order granting leave was issued. On February 10, 2000, the Court granted the motion. (R. Doc. 29.) As of this date, no such memorandum has been filed. Thus, the matter is considered submitted for decision.

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Request 1 seeks “all personnel files, documents, including applications of Mary Smith, Gary Clouatre, Eric Worthy, Eric James, Jeff Baldwin, Jebbie Baldwin, Mike Person and all women welders hired in 1994-1995.” The defendant represents that it already has produced the application of Ms. Smith. As to the other documents, the defendant contends that these records, which involve current or former employees of the company, have no relevance to the EEOC’s action. The EEOC’s opposition memorandum does not specify what role the other individuals may have had in connection with the failure to hire Smith. Moreover, the EEOC provides no explanation as to what might be contained in these files that would be relevant to the issue of whether the defendant discriminated against Smith because of her sex. Absent such an explanation, such a wide-ranging discovery request (e.g. “all personnel files”) is overly broad. The motion is granted as to this request.

Requests 2 and 3 seek “any and all” documents relating to the defendant’s business relationship with its contractors, subcontractors and independent contractors. The EEOC apparently seeks this information because it contends that a subcontractor who worked for the defendant offered Smith a job and was told that the defendant did not hire women. This alone, however, does not give the EEOC the right to inspect every piece of paper relating to the defendant’s business relationship with its contractors, subcontractors and independent contractors. Again, the EEOC has cast its net too wide. The motion is granted as to this request.

Request 6 seeks “any and all documents” including “applications and personnel files relative to all women welders hired in welding positions, particularly refractory welding positions from February 1994 to present.” The defendant argues that this request is irrelevant, overly broad and unduly burdensome. The Court disagrees. On its face, this

request does not suggest that it involves an inordinate number of documents, nor does it indicate that these documents are difficult to locate. Moreover, the issue of how many women welders, if any, the defendant has hired since 1994 is directly relevant to the EEOC's claim that the defendant has a policy of not hiring women.

From the defendant's opposition to other requests, however, there does appear to be a problem with providing this information. The defendant represents that it does not hire "welders." Instead, the defendant says that it hires employees who perform various functions, one of which is welding. If that is the case, the defendant should simply explain this in its response. Then, if the EEOC wishes to make a different inquiry, it can do so. The motion is denied as to this request.

Request 8 seeks "any and all documents indicating the whereabouts of Jeff Baldwin, personnel director . . . in 1994" along with other information about his responsibilities and duties both generally and specifically on the topic of hiring welders. The defendant suggests that the EEOC can ask Baldwin these things, since he is subpoenaed to testify at a deposition. The defendant argues that it also is impossible to produce documents indicating Baldwin's "whereabouts" in 1994 and 1995.

This part of the motion is granted in part and denied in part. The defendant must produce all documents it has that relate to Baldwin's responsibilities as personnel director and his role in hiring welders (subject to the previously referenced problem with the job title of "welder"). However, the request for documents that show Baldwin's "whereabouts" is hopelessly vague. A person can be in thousands of places in a two-year period. Without some context or specificity, the Court agrees that it is impossible for the defendant to respond properly to this request.

Request 10 seeks “any and all documents reflecting projects in 1994-1995 which required [the defendant] to hire welders, particularly refractory welders.” The defendant argues that it is not feasible to locate each document that might relate to every project during a two-year period that might have required the hiring of a welder (again, referencing the inaccuracy of the job title “welder” in the nature of the defendant’s business). Somewhere in this overly broad request is a relevant discovery issue. However, as the EEOC has phrased it, the defendant would be required to produce every document that related to every job it performed during a two-year period, where that job might conceivably have involved welding. This request plainly overreaches. The motion will be granted as to this request.

Requests 11 and 12 ask for “all payroll records of all persons hired as welders and refractory welders from January 1994-December 1995” and all documents describing how the defendant’s payroll records are maintained, including identification of the person responsible for preparing the defendant’s payroll in 1994-1995 and the person who maintains those records. These requests are overbroad. If the plaintiff seeks to determine the number of women versus the number of men hired for particular positions, it should specifically ask for that information. From the nature of this case, the plaintiff has shown no need for payroll records and specific information as to how those records are prepared and kept. The motion will be granted as to this request.

**(2) EEOC’s motion to compel.**

This motion relates to a set of interrogatories and requests for production of documents the EEOC served on the defendant in September 1999. Again, the Court will address these issues separately.

Interrogatory 7 asks the defendant to state the reason why Smith was not interviewed for any welder positions from 1994 to the present. The defendant objected to this interrogatory, claiming that it improperly assumes a conscious decision was made not to interview Smith. In its opposition memorandum, the defendant explains that because of the circumstances surrounding the hiring of refractory mechanics “who may or may not perform welds,” a formal interview process is not used. If this is so, the defendant need only have said this in its answer to the interrogatory. Thus, a proper answer might have read something like, “The defendant hires refractory mechanics whose jobs include welding, not just ‘welders.’ Because of the nature of this work, the defendant does not use a formal interview process to fill these positions. This is the reason Smith did not receive a formal interview.” As written, the defendant’s answer is insufficient. The motion is granted as to this request.

Interrogatory 11 asks the defendant to identify all individuals hired as “refractory welders” in 1994, and it seeks their date of hire, assignment, sex and rate of pay. The defendant objected to this request as being overly broad, unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence. The defendant further explains, again, that it does not hire “welders” and thus does not hire “refractory welders.” Again, if this is so, the defendant should have said so in its answer. The motion is granted as to this request.

Request 2 seeks “any and all documents related to the business relationship between Defendant and its contractor and subcontractors 1994-1995.” For the same reasons explained in the Court’s ruling on the defendant’s motion, this request is overly broad given the nature of this litigation. The motion is denied as to this request.

Request 5 asks for “any and all documents, including, applications and personnel files relative to all welders hired in 1994-1997, specifying those hired in refractory welding.” The defendant argues this request is unduly burdensome for this reason: Because it hires refractory workers who may or may not weld – not “welders” – it is impossible to determine what employees would have performed welding tasks during this period. Once again, an explanation of this problem in its response would have been preferable to the use of boilerplate objections. However, the Court will deny the motion as to this request, without prejudice to the EEOC’s right to submit a revised document request in accordance with the defendant’s hiring of “refractory workers” instead of “welders.”

Request 6 seeks “any and all documents, including, applications and personnel files relative to all women welders hired in refractory welding from February 1994 to present.” The problem with this request is the same as the problem with Request 5. Thus, the Court’s ruling is the same. Accordingly, the Court will deny the motion as to this request, without prejudice to the EEOC’s right to submit a revised document request in accordance with the defendant’s hiring of “refractory workers” instead of “welders.”

Request 7 asks for “any and all documents indicating the whereabouts of Jeff Baldwin, personnel director . . . in 1994.” For the reasons identified in the Court’s ruling on the defendant’s motion, the EEOC’s motion will be denied as to this request.

Request 9 seeks documents “reflecting projects in 1994-1995 which required [the defendant] to hire welders, particularly refractory welders.” For the same reasons identified in the Court’s rulings on Request 5 and 6, the motion is denied as to this request without prejudice to the EEOC’s right to submit a revised document request in accordance with the defendant’s hiring of “refractory workers” instead of “welders.”

Request 10 asks for “any and all documents, including the personnel files relative to Jeff Moore, Eric James and Gary Clouatre.” For the reasons identified in the Court’s ruling on the defendant’s motion, the EEOC’s motion will be denied as to this request.

In addition, the EEOC’s request for reasonable expenses incurred, including attorney’s fees, is denied, as the Court finds that the opposing party’s objection was at least partially justified. See Fed. R. Civ. P. 37(a)(4)(A).

Accordingly,

(1) The defendant’s Motion for Expedited Consideration (R. Doc. 15) is **GRANTED**.

(2) The defendant’s Motion to Quash Subpoenas and Notices of Deposition and Requests for Production of Documents (R. Doc. 13) is **GRANTED IN PART AND DENIED IN PART** in accordance with the analysis outlined above.

(3) The plaintiff’s Motion to Compel (R. Doc. 9) is **GRANTED IN PART AND ENIED IN PART** in accordance with the analysis outlined above.

**IT IS ORDERED** that the defendant shall provide to the plaintiff responsive answers and documents to the relevant requests within 10 days of the date this order is signed.

Signed in Baton Rouge, Louisiana, this 24<sup>th</sup> day of February, 2000.

  
**MAGISTRATE JUDGE CHRISTINE NOLAND**