

2006 WL 2924662
Only the Westlaw citation is currently available.
United States District Court,
E.D. Michigan,
Southern Division.

EQUAL EMPLOYMENT OPPORTUNITY, COMMISSION, Plaintiff,
and
Jennifer Boudrie, Intervening Plaintiff,
v.
METRO SPECIALTIES, INC., Defendant.

No. 05-CV-72516. | Oct. 5, 2006.

Attorneys and Law Firms

Dale R. Price, Jr., Equal Employment Opportunities Commission, Detroit, MI, for Plaintiff.

Lynn H. Shecter, Michelle E. Vocht, Roy, Shecter, Bloomfield Hills, MI, for Intervenor Plaintiff.

Neil A. Strefling, Madison Heights, MI, for Defendant.

Opinion

OPINION AND ORDER DENYING DEFENDANT'S REQUEST FOR DISCOVERY OF WITNESS' STATEMENTS MADE TO INTERVENING PLAINTIFF'S ATTORNEY

BERNARD A. FRIEDMAN, Chief District Judge.

I. Introduction

*1 Defendant seeks written witness statements that were made by intervening Plaintiff's attorney, and signed by witnesses' relevant to this case. The witnesses whose statements are sought have been deposed. Written discovery has been exchanged and depositions have been taken.

The statements sought by Defendant are those provided to intervening Plaintiff's counsel by Sam Finely, Ledyard Boudrie and Robbin Shadix. These witnesses were either present or past employees of Defendant and one witness still works for Defendant. The statements are derived from notes taken by intervening Plaintiff's attorney, and signed by each witness. The statements were taken after Plaintiff's intervening Complaint was filed, and before depositions were taken.

II. Analysis

Intervening Plaintiff argues that the statements are protected by the work product privilege. The work product privilege protects an attorney's preparatory work on a case. Federal Rule of Civil Procedure 26(b)(3) expressly protects against disclosure of trial preparation materials unless the party seeking disclosure makes "a showing that [it] has substantial need of the materials in the preparation of the party's case and that the party is unable without undue hardship to obtain the substantial equivalent of the materials by other means." Fed.R.Civ.P. 26(b)(3).

Defendant made no such showing. Defendant has not demonstrated a substantial need for the materials, arguing only that they "may" be relevant to impeach witnesses. However, Defendant has had adequate opportunity to depose the witnesses and to pose interrogatories to the witnesses, during which it could get the information in the statements and impeach the witnesses if the opportunity arose. As the Supreme Court stated in *Hickman v. Taylor*, and similar to the present situation, "[f]or aught

E.E.O.C. v. Metro Specialties, Inc., Not Reported in F.Supp.2d (2006)

that appears, the essence of what petitioner seeks either has been revealed to him already through the interrogatories or is readily available to him direct from the witnesses for the asking.” *Hickman v. Taylor*, 329 U.S. 495, 508 (1947).

III. Order

Accordingly,

IT IS ORDERED that Defendant’s request for discovery of witness statements is DENIED.

Footnotes

¹ Defendant also sought the written statements of Plaintiff made for her attorney. Defendant apparently no longer seeks such statements, as they are not addressed in its brief.