

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

EQUAL EMPLOYMENT OPPORTUNITY)
COMMISSION,)
)
Plaintiff,)
)
vs.)
)
ALLSTATE INSURANCE COMPANY,)
)
Defendant.)

Case No. 4:04CV01359 ERW

ORDER

This matter comes before the Court on Plaintiff’s Motion to Bifurcate Trial and Discovery [doc. # 19], Defendant’s Motion to Amend Case Management Order [doc. # 25], and Plaintiff’s Motion to Compel Production of Documents and Responses to Interrogatories [doc. # 27].

Plaintiff represents the interests of approximately one hundred former employees of Defendant. Plaintiff argues that its claim relating to liability is fairly straightforward, and thus should be bifurcated from the more complex remedial portion of the discovery and trial. Rule 42(b) of the Federal Rules of Civil Procedure (“FRCP”) provides that,

[t]he court, in furtherance of convenience or to avoid prejudice, or when separate trials will be conducive to expedition and economy, may order a separate trial of any claim, . . . always preserving inviolate the right of trial by jury as declared by the Seventh Amendment to the Constitution or as given by a statute of the United States.

This Court finds that Plaintiff has not provided a satisfactory explanation detailing how the intentional discrimination claims could be simultaneously pursued separate from the bifurcated adverse impact claims. Furthermore, the Court is not convinced that bifurcating discovery will allow Allstate sufficient access to the aggrieved individuals necessary for it to develop its defenses

to Plaintiff's theory of adverse impact. Instead, if Plaintiff believes that a portion of the liability issue can be resolved using the statutory analysis proposed in support of its motion to bifurcate, Plaintiff is free to file a motion for partial summary judgment on that particular issue. Because the Court finds that bifurcation will not aid in the efficiency and convenience of this action, and because Defendant will be prejudiced if the Court orders two discrete discovery periods, this Court holds that the discovery and trial in this matter will not be bifurcated.

FRCP 16 provides that a case management order may be modified "upon a showing of good cause." Defendants argue that the presumptive limit of 10 depositions is inadequate due to the large number of aggrieved persons disclosed by Plaintiff during initial disclosures. Although the Court finds that the use of other forms of discovery will likely be less expensive and more convenient for the aggrieved persons in this matter, it may be necessary for Defendant to depose more than 10 people. For that reason, the Court will allow Defendant to depose up to 20 people, with leave to request additional depositions if Defendant makes a showing that more depositions are necessary.

Defendant has failed to respond to multiple interrogatories and corresponding document requests. It appears that Defendant's refusal was predicated on Plaintiff's pending Motion to Bifurcate. Defendant argued that the discovery requested would not be relevant to the liability phase trial. Because this Court will deny the Motion to Bifurcate, the Court will also grant Plaintiff's Motion to Compel. Defendant shall provide the discovery as promised in its July 15, 2005 letter. If Plaintiff needs additional time to disclose experts and provide expert reports, Plaintiff may file a motion for an enlargement of time at the appropriate time.

Accordingly,

IT IS HEREBY ORDERED that Plaintiff's Motion to Bifurcate Trial and Discovery [doc. # 19] is **DENIED**.

IT IS FURTHER ORDERED that Defendant's Motion to Amend Case Management Order [doc. # 25] is **GRANTED in part**. Defendant shall be permitted to depose up to **20 individuals** and is granted leave to file a request to depose additional persons should it become necessary.

IT IS FURTHER ORDERED that Plaintiff's Motion to Compel Production of Documents and Responses to Interrogatories [doc. # 27] is **GRANTED**. Defendant shall provide full responses to the interrogatories and document requests no later than **September 9, 2005**.

Dated this 23rd day of August, 2005.



E. RICHARD WEBBER
UNITED STATES DISTRICT JUDGE