

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,

Plaintiff,

and

ROSEMARIE SKIFF,

Intervening Plaintiff,

v.

CLIFFORD B. FINKLE, JR., INC., and
DOUGLAS DOWLING,

Defendants.

Honorable Faith S. Hochberg

Civil Action No. 03 cv 4404 (FSH)

CONSENT ORDER

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WILLIAM T. WALSH, CLERK

This matter having come before the Court for at the Pretrial Conference pursuant to Fed. R. Civ. P. 16; Judith A. O'Boyle and Jacqueline H. McNair appeared for Plaintiff EEOC; Kenneth I. Nowak appeared for Plaintiff Intervenor Rosemarie Skiff, and Ronald Tobia having appeared for Defendants, and pursuant to the Order of the Honorable Patty Shwartz dated April 22, 2005; the following amendments to the Final Pretrial Order are hereby entered:

IT IS ON THIS 26th DAY OF April, 2005,

ORDERED that the first sentence of the fourth paragraph of Section 3, Stipulation of Facts of the Pretrial Order, is amended to read as set forth in the attached revised page 5;

IT IS FURTHER ORDERED that Section 12, Defendant's Depositions is amended to include the counter designations as set forth in the attached revised pages 34 and 35;

Rachel M. Smith
(Attorney for Plaintiff)

[Signature]
(Attorney for Intervening Plaintiff)

Neil J. Gryn
(Attorney for Defendants)

Patty Shwartz
PATTY SHWARTZ
United States Magistrate Judge

EEOC and R. Shiff v. Minko and Dowling
Amendments to Final Pre-Trial Order
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at 435 Allwood Road, Clifton, New Jersey. Defendant also operates a facility at 1001 Hopewell Avenue, Ocean, New Jersey. Defendant operates or utilizes facilities in other states, including Indiana.

Like other truck drivers employed by Defendant in Indianapolis, Ms. Skiff reports to a Penske distribution center in Indianapolis, Indiana, which dispatches Defendant's trucks. Defendant Douglas Dowling, Defendant's Director of Operations, is based in Ocean, New Jersey, but does travel to Indianapolis. As Director of Operations, Mr. Dowling has the authority to offer or terminate employment, take disciplinary action against Defendant employees, approve vacation and sick leave requests, approve regular driving schedules, answer any and all complaints from Defendant's employees, and institute policies. In addition, he has responsibility for reviewing, investigating, addressing and resolving any complaints involving the conduct of employees, and to take disciplinary and all other necessary actions to correct any misconduct. All complaints or problems an employee may experience, and which are not resolved in Indianapolis, are directed to Defendant Dowling in New Jersey.

On July 6, 2001, one of the drivers from Indianapolis, but not Skiff, wrote a letter to Dowling, and signed it from the "Indy Drivers" complaining about Jim McCanns' "management style." After receipt of the letter, on or about July 16, 2001, Dowling held a meeting of the drivers in Indianapolis which Skiff did not attend. Following the meeting, on July 20, 2001, Mr. Dowling relieved McCanns of his supervisory duties and re-assigned him to driving duties only. On July 20, 2001, Dowling advised the Indianapolis drivers that he would oversee the daily operations of the Indianapolis, Indiana dispatch site. Robert "Rick" Trinkle was given the responsibility for handling certain other duties such as transferring all paperwork and payroll records to Dowling's office, scheduling, and scheduling vacations and other time off and monitoring major truck repairs. One year later, on July 28, 2002, McCanns was terminated for reasons unrelated to the complaints of Rosemarie Skiff.

42.24 to 43.8
49.3 to 49.19
60.20 to 61.13

a. **On damages plaintiff intends to read into evidence the following:** None.

b. **Defendant objects to the deposition testimony set forth above for the reasons stated:**

i. Defendants Clifford B. Finkle Jr., Inc. and Douglas Dowling object to the deposition testimony set forth above to the extent that these witnesses are present for oral testimony in open court in the Trial of this matter.

ii. Defendants Clifford B. Finkle Jr., Inc. and Douglas Dowling object to the deposition testimony set forth above to the extent that, pursuant to *F.R.C.P.* 32(a)(4), other parts of the depositions set forth above should be introduced. Defendants reserve the right to require to introduce the portions set forth in Section 12 as its counter designations to the above.

iii. Defendants Clifford B. Finkle Jr., Inc. and Douglas Dowling object to the admissibility of the deposition testimony pursuant to *F.R.C.P.* 32(b).

2. **DEFENDANT'S DEPOSITIONS** (List, by page and line, all deposition testimony to be offered into evidence. All irrelevant and redundant matters and all colloquy between counsel must be eliminated, unless ruled relevant. Deposition testimony to be used solely for impeachment purposes need not be listed.)

a. **On liability defendant intends to read into evidence the following:**

(1) **Willard D. "Hank" Kerr:**
13.19 - 15.5
39.7 - 39.25

(2) **John P. Richardson**
22.23 - 23.12
24.14 - 24.25
50.1 - 50.6
51.3 - 54.4
55.8 - 55.12
58.25 - 59.3
60.11 - 60.20

- | | | |
|---|---|--|
| <p>(3) <u>Terry Wright:</u>
 25.19 - 26.3
 26.20 - 26.25
 30.15 - 30.25
 31.4 - 31.5
 32.2 - 32.9
 33.11 - 34.10
 34.16 - 35.4
 39.21 - 40.6
 41.2 - 41.11
 42.4 - 42.9
 42.25 - 43.1
 47.1 - 47.3
 50.1 - 51.18
 53.10 - 54.1
 54.16 - 54.9
 55.1 - 55.25
 56.11 - 57.6</p> | <p>(5) <u>Rick Trinkle</u>
 11.25 - 12.25
 13.6 - 13.10
 14.22 - 16.22
 17.16 - 18.13
 19.11 - 20.10
 21.14 - 22.8
 23.6 - 23.11
 26.25 - 27.7
 29.19 - 29.23
 30.7 - 30.14
 32.6 - 32.11
 33.3 - 33.15
 33.16 - 34.13
 39.2 - 39.5
 40.12 - 42.11
 42.17 - 42.21
 43.22 - 44.4
 48.1 - 48.5
 49.3 - 50.19
 52.5 - 52.15
 53.6 - 53.20
 59.3 - 59.6
 61.5 - 61.13
 68.14 - 68.22
 77.6 - 77.14
 80.9 - 80.19
 81.13 - 81.21
 83.1 - 83.5
 83.18 - 83.21
 85.1 - 86.12
 86.23 - 87.3
 87.14 - 88.9
 91.9 - 91.17
 96.20 - 97.2
 101.23 - 102.9
 103.15 - 105.19
 107.3 - 107.7
 108.8 - 108.18
 109.13 - 109.25</p> | <p>(6) <u>Roy Davis</u>
 11.14 - 11.18
 25.14 - 26.7
 27.2 - 27.13
 37.15 - 37.5
 45.2 - 46.15
 47.18 - 48.4
 54.13 - 55.3
 60.14 - 60.19
 62.1 - 62.9
 63.12 - 65.21
 72.10 - 74</p> |
| <p>(4) <u>Robert W. Hornsby:</u>
 7.2 - 7.11
 20.21 - 20.25
 23.9 - 23.12
 27.10 - 27.22
 31.21 - 31.24
 35.16 - 35.22
 36.13 - 36.20
 37.9 - 37.22
 47.18 - 48.3
 48.21 - 49.13
 50.1 - 50.10
 50.12 - 50.18
 53.23 - 54.14</p> | | |

B. On damages defendant intends to read into evidence the following: None.

C. Plaintiff objects to the deposition testimony set forth above for the reasons stated: None except to reserve any objections to testimony under FRCP 32(b).