

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,	:	Civil Action No. 06-1453 (JAP)
	:	
Plaintiff,	:	ORDER
	:	
v.	:	
	:	
UNITED PARCEL SERVICE, INC.,	:	
	:	
Defendant.	:	
	:	

This matter, having been opened upon Motion by Wendy Johnson Lario, Esq., Counsel for Defendant United Parcel Service (“UPS”) for a Protective Order pursuant to FED.R.CIV.P. 26(c)(7) [Docket Entry No. 13]; and Defendant seeking to safeguard the confidentiality of its “ intranet, computer systems, software, applications, network, and vendor provided systems, software, and networks”; and Defendant asserting that its so-called GEMS system “contains personal and confidential information about all UPS employees,” to wit, names, addresses, telephone numbers, social security numbers, job titles and dates, and salary and bonus information; and defendant further asserting that only “District-level Human Resources managers and above are the only employees” with access to manipulate the GEMS data; and Defendant further asserting that its so-called CATS system, which is maintained by an entity that is not a party in this litigation, “contains [job] applicant flow data; information which is supplied by candidates applying for UPS job positions”; and Defendant further asserting that the information stored on the CATS system is transferred to the GEMS system only once a prospective applicant is hired, and otherwise is maintained on the CATS system; and defendant further asserting that the data from GEMS and CATS “contains personal and confidential information, the disclosure of which would violate the privacy interests of affected

individuals”; and Defendant further asserting that the “systems themselves are proprietary,” as they were custom-created by UPS and its vendors in response to its demands; and Defendants further asserting that the systems “reveal operational and structural information and capabilities of UPS, security measures, and proprietary business information”; and Defendant further asserting that should this private information be disclosed to the public, Defendant would be harmed by the loss of the time, effort, and expense invested in creating the intricate systems should they be compromised; and Defendant further asserting that the GEMS and CATS systems contain personal information of applicants and employees, such as social security numbers, salary information, home addresses, telephone numbers, and that those nonparty individuals would be harmed if the information were released; and Plaintiff asserting that Defendant “in effect proposes the closing of the courtroom during the trial of this matter”; and Plaintiff further asserting that any confidentiality Order “should remain in effect only during discovery”; and Plaintiff further asserting that “the EEOC litigates on the public’s behalf, and ... [any] litigation should be presumptively public”; and the Court noting that Plaintiff does not appear to raise any substantive objection to Defendant’s proposed parameters; and the Court further noting that Plaintiff’s opposition rests on the premise that Defendant should not be allowed to keep information deemed relevant for trial hidden from the public; and the Court further noting that the information sought to be protected and maintained by these systems relates to non-parties and includes highly personal information such as social security numbers and salary information; and the Court further noting that should Defendant wish to rely on the materials proposed to be protected for a motion or at trial, it would be Defendant’s responsibility and burden to have the materials sealed pursuant to *L.Civ.R. 5.3(c)(6)*; and the Court further noting that, pursuant to *L.Civ.R. 5.3(b)(2)*, any application for a discovery confidentiality order must describe “(a) the nature of the materials to be kept confidential, (b) the legitimate private or public interests which

warrant confidentiality, and (c) the clearly defined and serious injury that would result should the order no be entered” (*L.Civ.R. 5.3(b)(2)*); and the Court further noting that any dispute regarding the entry or confidentiality of discovery materials shall be brought before the Magistrate Judge (*id.*); and the Court finding that Defendant’s submission sufficiently described the nature of the materials sought to be kept confidential; and the Court further finding that there exist strong and obvious interests, both public and private, in keeping personal and employment information such as social security and telephone numbers of UPS employees and prospective employees out of the public eye during discovery, especially in this age of identity theft; and the Court further finding that Defendant would be seriously injured not only if its proprietary software were compromised, but also if its ability to keep sensitive personal information private were likewise compromised; and this matter having been considered pursuant to FED.R.CIV.P. 78; and for good cause having been shown;

IT IS on this 5th day of April, 2007,

ORDERED that Defendant’s Motion for an Order entering a Protective Order is hereby GRANTED, and it is further

ORDERED that this Order solely governs the production of the material during discovery, and it is further

ORDERED that the parties should confer on appropriate form of Protective Order, and submit a proposed Order to this Court for review no later than **April 16, 2007**.

s/ Tonianne J. Bongiovanni
HONORABLE TONIANNE J. BONGIOVANNI
UNITED STATES MAGISTRATE JUDGE