

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION, et al

Plaintiffs,

-against-

04 Civ. 2472 (GAY)

QUICK QUALITY RESTAURANT, INC.,
and CANDU MANAGEMENT, INC.,

Defendants.
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MEMORANDUM DECISION AND ORDER


Presently before the Court is a discovery dispute regarding when financial information concerning the defendants must be provided to plaintiffs. It is undisputed that said information may be relevant to the jury's consideration of any punitive damages claim. "Under well established precedent in this Circuit, 'it is the defendant's burden to show that his financial circumstances warrant a limitation of the award.'" Provost v. The City of Newburgh, 262 F.3d 146, 163 (2d Cir. 2001)(citation and quotation omitted). Plaintiff seeks any financial information on the defendants immediately. Defendants seek to delay any such discovery unless and until there is a special verdict on punitive damages in favor of the plaintiffs. Trial is scheduled for September 19, 2005.

The Court will exercise its discretion to bifurcate the issue of the amount of any punitive damages from the rest of the trial. Fed. R. Civ. P. 42(b). In other words, the jury will determine on a special verdict form at trial whether a defendant is liable for

punitive damages, along with the other general issues of liability and damages. If a defendant is found to be liable for punitive damages, the Court will direct said defendant to provide financial discovery to the plaintiff limited to "a financial affidavit in the form of a personal balance sheet listing ...assets and liabilities. This affidavit should also include a general statement of ... net worth." Hazeldine v. Beverage Media, LTD., 1997 U.S. District LEXIS 8971 *12 (S.D.N.Y. June 27, 1997). The Court deems that such discovery would be appropriate under the circumstances herein. Any of said discovery to be provided is to be used only in the litigation of this case and destroyed by the plaintiffs at the conclusion of the case.

SO ORDERED:

DATED: September 6, 2005
White Plains, New York



GEORGE A. YANTHIS, U.S.M.J.