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United States District Court,
E.D. Pennsylvania.

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSIONER
v.
RED ROBIN DINER

No. Civ.A. 03-3881. | Filed June 30, 2003. | April 4,
2004.

Attorneys and Law Firms

represented by Iris Santiago-Flores, Equal Employment, Opportunity Com, Phila District Office, Philadelphia, PA, Lead Attorney, Attorney to be Noticed, Jacqueline H. McNair, Equal Employment, Opportunity Commission, for Equal Employment Opportunity Commission, Plaintiff.

Opinion

MEMORANDUM AND ORDER

HART, Magistrate J.

*1 The Plaintiff has filed a motion to compel answers to interrogatories and document requests in this sexual harassment case. The Defendant has refused to respond to any of the discovery requests, citing the Scheduling Order, in which the Honorable Bruce Kauffman, to whom the case is assigned, included the following language:

Interrogatories and Requests for Production may be utilized only to the extent the parties' Initial Disclosures appear incomplete.

Scheduling Order, at ¶ 2. The Defendant complains that the Plaintiff has requested discovery without even alleging that the initial disclosures were incomplete. Neither side has provided the initial disclosures, which makes it impossible for the court to determine what, if anything, is lacking.

Pursuant to Federal Rule of Civil Procedure 26(b)(2), the court may limit discovery if it determines that the discovery is unreasonably cumulative, burdensome,

unreasonably expensive, or if the party seeking discovery already had ample opportunity to obtain the discovery. Fed.R.Civ.P. 26(b)(2). The Defendant implies that the discovery obtained during the administrative proceedings render the requests at issue duplicative and burdensome to "a small family business." See Response, at 3. We do not find that the 19 numbered interrogatories and 22 numbered document requests are burdensome. In fact, review of the Plaintiff's requests reveals that the Plaintiff has strictly limited the information sought. For example, when asking for a list of the employees, the Plaintiff has limited it, not only by time frame—April, 2000 through June, 2001, but also seeks only information regarding employees who worked the shifts that the individual plaintiffs did. Therefore, we do not find the requests to be burdensome, even to "a small family business."

As for the objection that the Defendant may have provided relevant information during the administrative investigation, although we see some overlap between the information now sought at that sought in the administrative proceeding, we also note that many of the interrogatories seek more detailed information. Where appropriate, we see no harm in instructing the Defendant that it may refer to prior disclosures, produced in either in the administrative proceeding or in its initial disclosures, in responding to these requests. To the extent the Plaintiff seeks information that has not been produced previously, we expect the Defendant to provide full and complete responses within ten days of the entry of the attached Order.

ORDER

AND NOW, this 4th day of April, 2004, upon consideration of the Plaintiff's Motion to Compel Answers to Interrogatories and Document Requests, the response, thereto, the Scheduling Order entered in the case, and for the reasons stated in the accompanying Memorandum, IT IS HEREBY ORDERED that the Motion is GRANTED. To the extent the information sought has been previously provided, the Defendant may refer Plaintiff to the prior production, specifically. To the extent the Plaintiff seeks information not previously disclosed, the Defendant shall answer the interrogatories and produce the requested documents within ten days of the entry of this Order.

