

FILED

SEP 17 2001

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

LARRY W. PROPEL, CLERK
COLUMBIA, S.C.

COLUMBIA DIVISION

ENTERED
9/18/01

EQUAL EMPLOYMENT)
OPPORTUNITY COMMISSION,)
)
Plaintiff,)
)
vs.)
)
AUGUSTA FIBERGLASS COATINGS,)
INC., and JOHN W. BOYD,)
)
Defendants.)
_____)

C.A. No. 3:00-1255-19BC

ORDER

This case is before the Court on the plaintiff's Motion to Compel filed on December 4, 2000.

The plaintiff contends that the defendants should be required to name specifically the witnesses they intend to call at trial. The plaintiff asserts that the defendants' response to Local Civil Rule Interrogatory 26.03 is inadequate. It states:

[T]he defendant anticipates that it may call any person who is identified as a witness or participant in events by witnesses called by the EEOC, and who has already been identified in depositions by the EEOC's witnesses. These witnesses may be called to rebut the testimony of the witnesses called by the EEOC.

The defendants argue that their response is adequate, especially in light of the plaintiff's delay in naming hundreds of its witnesses until very late in the pre-trial process and the plaintiff's failure to identify the specific allegations of discrimination it intends to pursue at trial.

The Court finds the defendants' response to be adequate but not for the reasons

WMS p. 1

120

suggested by the defendants. In their interrogatory answer, the defendants limit their witnesses to those identified by the plaintiff and those individuals identified by the plaintiff's witnesses in deposition. Therefore, the plaintiff is fully apprised of every witness that the defendants might possibly call at trial. Moreover, the defendants' answer also apprises the plaintiff of the subject of potential witnesses' testimony, *i.e.* to rebut.* The plaintiff is not prejudiced by the defendants' answer. The plaintiff obviously should be aware of everything its witnesses might say, and it has an opportunity to find out what the other individuals disclosed in its witnesses' depositions might say.

The Court hereby **ORDERS** this the 17th day of September, 2001, at Columbia, South Carolina, that plaintiff's Motion to Compel be **DENIED**.


DENNIS W. SHEDD
UNITED STATES DISTRICT JUDGE

*Obviously, when the plaintiff calls a witness, the defendant normally shall be required to cross-examine that witness during the plaintiff's case in chief rather than wait to call that witness during the defendants' case in chief.