

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

FILED BY *Uhs* D.C.

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ROBERT J. GIBSON
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EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,

Plaintiff,

and

No. 00-2923-G

CONSTANCE AMOS,

Plaintiff-Intervenor,

v.

AUTOZONE, INC.,

Defendant.

ORDER ON PLAINTIFF'S MOTION FOR A PROTECTIVE ORDER

Before the court by order of reference is the motion of the plaintiff, Equal Employment Opportunity Commission ("EEOC"), for a protective order pursuant to Rule 26(c), Federal Rules of Civil Procedure, precluding the defendant, Autozone, Inc. ("Autozone"), from deposing its attorneys in this litigation. This lawsuit involves the EEOC's charge of discrimination against Autozone, alleging that it has violated and continues to violate Title VII in its recruitment and hiring practices by failing to hire and recruit African Americans and females into management positions. The defendant issued a subpoena under Fed.R.Civ.P. 30(b)(6) to take the deposition of a representative of the plaintiff and, in particular, with regard to the various allegations set forth in the plaintiff's complaint relative to the charges against Autozone. The EEOC has sought protection from this deposition, claiming that by allowing the defendant to depose its attorneys,

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who would be the only persons with the knowledge sought by the defendant, the defendant would be delving into the thought processes and work product of the plaintiff, as well as violating various privileges with regard to the preparation of this litigation on the part of the Commission.

The court conducted a hearing on plaintiff's motion on October 10, 2001, and following argument of counsel, found as follows:

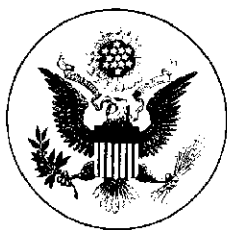
- (1) With regard to that part of the plaintiff's motion for a protective order concerning deposing counsel, the court would not allow the deposition of the attorneys of the Commission at this stage in the litigation; and
- (2) the court directed the defendant to seek alternative means of securing the information, such as contention interrogatories and taking the deposition of the Commission's investigators, who were most familiar with the fact-finding and investigation leading up to the filing of the charges in this case.

As to information regarding the facts and methodology underlying the EEOC's statistics and computation of damages, the court was advised that the EEOC will be revealing its expert witness list, as well as providing Rule 26(a) expert reports, on or before November 1, 2001. At that point, the defendant would be in a position to determine which, if any, of the experts it would intend to depose concerning the statistics and computation of damages. Once all of the depositions described herein have been completed, the court may revisit the issue as to whether the defendant would be entitled to take the deposition of the plaintiff's counsel concerning the EEOC's investigation leading up to the filing of these charges, as well as any additional investigation that has been undertaken concerning alleged ongoing discrimination by defendant.

IT IS SO ORDERED this 19th day of October, 2001.



J. DANIEL BREEN
UNITED STATES MAGISTRATE JUDGE



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C. Gregory Stewart
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
1801 L. Street, N.W.
Room 7054
Washington, DC 20507

Gwendolyn Young Reams
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
1407 Union Avenue
Ste. 621
Memphis, TN 38104

Katharine W. Kores
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
1407 Union Avenue
Ste. 621
Memphis, TN 38104

Terry L. Beck
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
1407 Union Avenue
Ste. 621
Memphis, TN 38104

Celia S. Liner
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
1407 Union Avenue
Ste. 621
Memphis, TN 38104

Deidre Smith
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
1407 Union Avenue
Ste. 621
Memphis, TN 38104

Thomas J. Borek
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
1407 Union Avenue
Ste. 621
Memphis, TN 38104

Walter W. Christy
FRILOT PARTRIDGE KOHNKE & CLEMENTS
3600 Energy Centre
1100 Poydras Street
New Orleans, LA 70163

Leslie W. Ehret
FRILOT PARTRIDGE KOHNKE & CLEMENTS
3600 Energy Centre
1100 Poydras Street
New Orleans, LA 70163

Tracy K. Hidalgo
FRILOT PARTRIDGE KOHNKE & CLEMENTS
3600 Energy Centre
1100 Poydras Street
New Orleans, LA 70163

Madeline D. West
FRILOT PARTRIDGE KOHNKE & CLEMENTS
3600 Energy Centre
1100 Poydras Street
New Orleans, LA 70163

Madeline D. West
FRILOT PARTRIDGE KOHNKE & CLEMENTS
3600 Energy Centre
1100 Poydras Street
New Orleans, LA 70163

Jef Feibelman
BURCH PORTER & JOHNSON
130 N. Court Avenue
Memphis, TN 38103

Lisa A. Krupicka
BURCH PORTER & JOHNSON
130 N. Court Avenue
Memphis, TN 38103

J. Daniel Breen
U. S. Magistrate Judge
167 N. Main St., Room 934
Memphis, TN 38103

Donald A. Donati
DONATI LAW FIRM, LLP
1545 Union Ave.
Memphis, TN 38104

Reva M. Kriegel
DONATI LAW FIRM, LLP
1545 Union Ave.
Memphis, TN 38104

Honorable Julia Gibbons
US DISTRICT COURT