

FILED  
DISTRICT OF WYOMING  
CLEVELAND

SEP 21 11 09 24

CLERK  
U.S. DISTRICT COURT

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF WYOMING**

EQUAL EMPLOYMENT OPPORTUNITY )  
COMMISSION, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
CUNDY ASPHALT PAVING )  
CONSTRUCTION, INC., )  
 )  
Defendant. )

Case No. 01-CV-44-D

**ORDER RULING ON PLAINTIFF EEOC'S MOTION TO COMPEL DISCOVERY,  
INCLUDING STATEMENT OF DEFENDANT'S POSITION**

The above-entitled matter having come before the Court on Plaintiff EEOC's Motion to Compel Discovery, Including Statement of Defendant's Position, and the Court having carefully considered the motion, which contains each parties arguments and positions, and being fully advised in the premises FINDS:

1. This action comes before the Court on the Title VII claim of pregnancy discrimination arising out of Defendant's decision to terminate Kimberly Dolby on April 28, 1998, the day after she advised her supervisor she was pregnant and subject to a 25-pound lifting restriction Defendant admits Ms. Dalby was terminated because of the 25-pound lifting restriction, asserting there were no jobs available without that requirement, but denies he was terminated because of

pregnancy.

2. The plaintiff files the instant motion seeking a court order requiring the defendant to produce copies of the personnel records for current and former employees who participated in the decision to terminate Kimberly Dalby, and copies of personnel records for all current and former employees who “at any time during their employment had a temporary or permanent medical condition and/or physical limitation.” The defendant does not object to the plaintiff’s discovery request, but is unwilling to turn over private personnel records absent either a court order or a release from the individuals whose records are to be produced. The parties have also indicated to the Court that they will stipulate to and enter into a protective order preventing the unnecessary or illegal dissemination of the materials contained in the personnel records.

3. The Court will require the defendant to produce for inspection by the plaintiff, the requested personnel records for all current and former employees who participated in the decision to terminate Kimberly Dalby, and the personnel records of current and former employees who “at any time during their employment had a temporary or permanent medical condition and/or physical limitation.” The produced documents will be identified as confidential and will be subject to a protective order to be entered by this Court. Said protective order shall be stipulated to and entered into by both parties, and shall be similar in form to the protective order submitted by the parties in support for this motion.


4. The plaintiff’s request for a “Statement of the Defendant’s Position” shall be denied

since the plaintiff failed to present argumentation in support thereof.

NOW, THEREFORE, IT IS ORDERED that Plaintiff EEOC's Motion to Compel Discovery, be, and the same hereby is, GRANTED, as set forth more fully above. It is.

FURTHER ORDERED that Plaintiff EEOC's Motion to Compel a Statement of Defendant's Position be, and the same hereby is, DENIED.

Dated this 30<sup>th</sup> day of July, 2001.

  
William C. Beaman, United States Magistrate Judge