

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

CHRISTI VITULLO : CIVIL ACTION
 :
 v. :
 :
 THE BOROUGH OF YEADON : NO. 04-3929

MEMORANDUM AND ORDER

JACOB P. HART
UNITED STATES MAGISTRATE JUDGE

February 28, 2006

The Defendant has filed a Motion in Limine seeking the exclusion of a number of trial exhibits proposed by the Plaintiff. The Plaintiff has responded, defending the use of several of the exhibits, but explaining that others will only be used for impeachment. During a telephone conference with counsel, after reviewing the exhibits, I explained that certain broad categories of exhibits would not be permitted.

Because this case involves an allegation of racial discrimination, any exhibits pertaining to discrimination suits or allegations not based on race will be excluded. Similarly, the Plaintiff has not asserted that she was subjected to a hostile work environment. Therefore, racially motivated actions not connected to employment, i.e. the Halloween decorations and actions on building permits, will not be permitted.

The Plaintiff has also proffered exhibits regarding after-the-fact events, including revisions to the nepotism policy and assessments of Ms. Watts' job performance.¹ These exhibits will not be permitted. Revisions to the policy or other subsequent remedial measures are inadmissible pursuant to Federal Rule of Evidence 407. See *McLaughlin v. Diamond State Port*

¹The basis of the Plaintiff's suit is that she did not receive a full-time secretarial position that was given to Joan Watts, an African American.

Corp., 2004 WL 3059543 *4 (D.Del. Dec. 30, 2004)(applying subsequent remedial measures rule to Title VII case). Assessments of Ms. Watts' job performance are irrelevant to the decision to hire Ms. Watts. Although her credentials and work experience are relevant to her selection, evidence regarding the quality of her work, once hired, is irrelevant to the original decision.

Finally, several of the exhibits contained in the Plaintiff's submissions include documentation regarding the efforts made to obtain information concerning Ms. Watts' compensation, once hired. Although the information eventually obtained regarding Ms. Watts' salary and transcription fees are relevant to damages, the documentation regarding the efforts to obtain the information, including the Common Pleas Court's Order, directing Yeadon to release the documentation, is irrelevant to this suit.

An appropriate Order follows.

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AND NOW, this 28th day of February, 2006, upon consideration of the Defendant's Motion in Limine to Preclude Inadmissible Documents in Evidence, the Response, thereto, the exhibits provided by the Plaintiff, and for the reasons stated in the accompanying Memorandum, IT IS HEREBY ORDERED that the Motion is GRANTED to the extent noted in the Memorandum.

BY THE COURT:

/s/Jacob P. Hart

JACOB P. HART
UNITED STATES MAGISTRATE JUDGE