

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

EDITH SULLIVAN : CIVIL ACTION:
 :
 v. :
 :
 WAKEFERN FOOD CORPORATION, :
 and PRRC d/b/a PRICE RITE :
 SUPERMARKETS : NO. 03-3696

MEMORANDUM AND ORDER

JACOB P. HART
UNITED STATES MAGISTRATE JUDGE

April 25, 2007

The plaintiff in this action, asserting claims for retaliation under Title VII and other work place harassment, has filed a Motion to Compel Answers to Interrogatories. Plaintiff contends that Defendant's responses to Interrogatories 1, 2, 3, 4 and 6 are incomplete.

Interrogatory 1

The first interrogatory reads as follows:

For each response in the Answer to the Complaint, identify, by paragraph number for the response, the name and address of every person who: (a) provided the information to allow the response, (b) assisted in preparing the response, (c) assisted in finalizing the response that appears in the Answer.

Defendant responded as follows:

(a-c) The Answers to the Complaint were prepared with assistance of Counsel, and Anne Marie Burke, Wakefern Food Corporation.

Plaintiff contends that the answer is incomplete and that it is implausible that Wakefern's corporate counsel, Ms. Burke, is the only one other than counsel, who provided information. She also indicates that interrogatory 1(c) was not answered. Defendant has responded by stating that the majority of plaintiff's assertions in her Complaint amounted to conclusions of fact and/or law

which were simply denied in Defendant's answers. Therefore, the response indicates that no one other than counsel and Ms. Burke assisted in finalizing the answer to the Complaint. It is also apparent from the face of Defendant's response that this response, in fact, pertained to all three subsections of the interrogatory, a, b, and c. We will therefore not require defendants to provide any additional information.

Interrogatory 2

In the second interrogatory, defendants were asked "For each response in the Answer to the Complaint, identify, by paragraph number for the response and the name of the person, and state verbatim what the person or person said to fashion the response as it appears." Defendant responded to this interrogatory by objecting to the extent that the question calls for information protected by attorney client privilege or work product doctrine.

We agree with Defendant that this question, to the extent that it is asking for verbatim conversations between Defendant and counsel, need not be answered as such conversations are protected by attorney client privilege. We therefore will not require Defendant to provide an answer.

Interrogatory 3

Plaintiff asked the Defendant for each response and/or denial in the Answer to the Complaint, to identify, by paragraph number for the Answer, the document that was relied upon for the response or denial. Defendant objected to the extent the question calls for information protected by attorney client privilege or work product doctrine. Defendant also stated "By way of different response, see Answering Defendant's Initial Disclosures." In their response to this Motion, Defendant stated that to the extent the question calls for response referencing any

discussions between counsel and defendants, they maintain their objection that the discussions are protected by attorney client privilege. Defendant states that the remainder of the answer they provided was to see the Initial Disclosures which are comprised of Plaintiff's personnel file documents. Although they once again emphasize that most of the assertions pled by Plaintiff were denied because they amounted to conclusions of fact and/or law, the defendant now specifies that the personnel files were used to verify plaintiff's term of employment with the defendant, the date of her hire and the date of her termination.

Especially considering the clarification provided by the defendant in response to the Motion as to what information was taken from the Initial Disclosures, we agree that the interrogatory has been answered completely.

Interrogatory 4

By way of interrogatory 4, Plaintiff asked Defendant for each defense asserted to identify by the defense, "(a) the name and home address of the person that was relied upon to assert the defense, further state exactly and verbatim what the person said to establish the defense, (b) the name and home address of the person who will be relied upon at trial to establish the defense. Further state exactly and verbatim what the person will say to establish the defense, (c) the document that is relied upon for the Defense." Defendant responded as follows: "The affirmative Defenses plead in Defendant's Answer to Plaintiff's Complaint were plead on behalf of Answering Defendant under the guidelines and directions of Counsel. Answering Defendant objects to the extent Plaintiff's inquiry calls for a response which would breach attorney client privilege. By way of further response and without waiving the aforesaid objections, Answering Defendant reserves the right to supplement this response as discovery proceeds."

Initially, plaintiff cites Pennsylvania Rule of Civil Procedure 1030(b), which is not relevant to this case. Furthermore, to the extent plaintiff is once again asking for verbatim conversations between Defendant and counsel regarding their defenses in this case, such communications are protected by attorney client privilege. As to the other information requested, Defendant explains that the interrogatory is to be supplemented because subsections (b) and (c) request information prematurely as discovery has just begun and depositions have not yet been taken. Defendant asserts that while the defenses were plead in good faith, discovery will determine whether the defenses are viable. Accordingly, at this stage of the case, we will not require any additional response.

Interrogatory 6

Interrogatory 6 provides:

Identify by paragraph number the name of the person and/or describe what documents were examined, obtained or created, to allow the defendants to respond to the Complaint with the response: “After a reasonable investigation, Answering Defendant lacks sufficient knowledge or information to form a belief as to the truth of the averments...”

Defendant responded by stating “Plaintiff bears the burden of establishing all claims at the time of trial by a preponderance of the evidence. By way of further response, please see Answering Defendant’s Initial Disclosures to Plaintiff.” In addition, in response to this Motion, Defendant has stated that the Answer to the Complaint was prepared by counsel after discussion with the defendants, which is privileged, and after review of the documents provided by way of the Initial Disclosures, as stated in response to the interrogatory. We therefore find this response sufficient.

Proper Formatting

Finally, Plaintiff asserts that the responses to the Interrogatories were not properly formatted in accordance with Pennsylvania Rule of Civil Procedure 4006. As this Rule is not applicable, the Court will not entertain this objection.

An appropriate order follows.

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SUPERMARKETS	:	NO. 03-3696

ORDER

AND NOW, this 25th day of April, 2007, upon consideration of the Plaintiff's Motion to Compel Answers to Interrogatories and Defendant's Reply thereto, IT IS HEREBY ORDERED that the Plaintiff's Motion is DENIED.

BY THE COURT:

/s/Jacob P. Hart

JACOB P. HART
UNITED STATES MAGISTRATE JUDGE