

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION

EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION

PLAINTIFF

v.

No. 4:16-mc-8-DPM

DILLARD'S INC

DEFENDANT

ORDER

1. For the reasons stated on the record at the 19 August 2016 hearing, the EEOC's application to enforce the subpoena, *No 1*, is granted as modified.

2. The relevant time period is 11 July 2010 through 18 February 2016. By 2 September 2016, Dillard's must produce the requested information, as limited by the parties' agreement at the hearing, about Dillard's Little Rock-based Executive Development Program that was compiled for Dr. Metzger's review. By 19 September 2016, Dillard's must produce the employee information, limited to black and mixed-race current and former employees at retail locations. This production shall include last-known addresses and telephone numbers. Also by 19 September 2016, Dillard's must supplement

its production on the Executive Development Program. If a second supplement on that Program is needed, it's due by 3 October 2016.

3. The EEOC must hold off a bit on sending the cover letter and questionnaire. The parties first need to determine the actual number of current and former employees in the data set. This will be clear by September 19th. By 3 October 2016, the Court directs the EEOC to propose to Dillard's how best to make this inquiry to a reasonable sample of people: by surveying, for example, all these individuals who work (or worked) at certain stores; by surveying every xth (fifth, or tenth, etc.) person; or by some other sensible criterion. The goal is to secure a representative sample, while minimizing the likelihood of disruption to Dillard's business. By 3 October 2016, the EEOC must also propose to Dillard's the draft cover letter and questionnaire. The letter should include disclaimer language similar to the terms outlined at the hearing.

The Court directs good faith collaboration on all these issues. Joint report on sample size and method, as well as on the draft cover letter and questionnaire, due by 14 October 2016. The Court encourages give and take

from both sides on all points. An agreed proposal would be welcomed, though the Court will break any impasse if need be.

So Ordered.

D.P. Marshall Jr.

D.P. Marshall Jr.
United States District Judge

22 August 2016