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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

WILLIAM A. SMITH and JOSE )  
LEMUS, )  
 )  
Plaintiff(s), )  
 )  
v. )  
 )  
PACIFIC GAS AND ELECTRIC )  
COMPANY, )  
 )  
Defendant(s). )  
\_\_\_\_\_ )

No. C07-2126 JSW (BZ)  
**SEVENTH DISCOVERY ORDER**

Plaintiffs have filed a motion to compel further responses to their requests for production of documents, set one, numbers 6 and 7, and set two, numbers 26, 37, 52, 53, 62, 73, 74, 77, 78, 81, and 83 - 86. For the reasons set forth below, plaintiffs' motion is **GRANTED IN PART** and defendant is **HEREBY ORDERED** to provide further responses as follows:

1. With regards to the documents produced in response to set one, request number 6, defendant shall produce the applications in a manner that will allow plaintiffs to match the applications and resumes to the specific manager positions. If defendant has to un-redact the names of the

1 candidates in order to comply with this order, the  
2 applications can be produced pursuant to an "Attorneys Eyes  
3 Only" protective order.<sup>1</sup>

4 2. As ordered in the Fifth Discovery Order, defendant  
5 shall produce all documents in response to set one, request  
6 number 7 for job number 38854 (subject to limitations set  
7 forth in that order). According to plaintiffs, they have  
8 received the documents defendant produced to the EEOC, and  
9 requested documents for plaintiff Lemus and the selectee for  
10 job number 38854. Plaintiffs claim that defendant have not  
11 produced the requested documents for the unsuccessful  
12 candidates for the job. Based on the transcripts of the meet  
13 and confer sessions lodged with the court, it appears that  
14 defendant first denied that I ordered it to produce the  
15 documents and later agreed to produce the documents.  
16 Defendant now contends that it searched for the documents and  
17 subsequently discovered it had already produced all responsive  
18 documents. Plaintiffs imply that defendant are withholding or  
19 have destroyed the responsive documents regarding the  
20 unsuccessful candidates for the position. If defendant still  
21 contends that it has conducted a diligent search and has  
22 produced all responsive documents, it shall provide a  
23 declaration to that effect from the person responsible for the  
24 search and production, under Federal Rules of Civil Procedure

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25  
26 <sup>1</sup> The parties are **HEREBY ORDERED** to stipulate to an  
27 amended protective order that includes an "Attorneys Eyes Only"  
28 provision and to submit that order for Judge White's approval  
by no later than **September 19, 2008**. I urge the parties to use  
the sample protective order located on the Court's website.

1 11 and 26(g), by no later than **September 24, 2008**. Otherwise  
2 defendant shall produce the documents by that date.

3 3. Defendant shall produce documents in response to set  
4 two, requests **26, 37, 52** and **53**. The need for plaintiffs to  
5 discover this information outweighs the privacy interests of  
6 the employees involved, which are adequately addressed by  
7 redacting personal information from the documents and  
8 producing the documents pursuant to the "attorney's eyes only"  
9 protective order.

10 4. With regards to plaintiffs' set two, request **62**,  
11 defendant shall produce the data separated into ITUSS and ITI  
12 data.

13 5. As to set two, requests **73** and **74**, defendant shall  
14 extend its table to include the employees' pay grade.

15 6. As to set two, requests **77** and **78**, defendant shall  
16 produce the performance scores of the individuals in question  
17 linked to their ages subject to the "attorney's eyes only"  
18 protective order.

19 7. With regards to set two, request **81**, defendant shall  
20 produce the performance evaluations, job classifications, and  
21 rotation agreements for Newzell, Dale, Hunt and Abinante  
22 subject to the "attorney's eyes only" protective order.

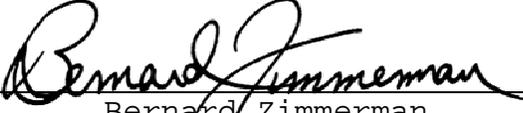
23 8. As to set two, requests **83 - 86**, defendant shall  
24 produce the personnel files and performance evaluations of  
25 Lemons, Savage, McKinnon and DePorto subject to the  
26 "attorney's eyes only" protective order.

27 9. Defendant shall provide the further responses, as set  
28 forth in this order, by not later than **Wednesday, September**

1 24, 2008.

2 Plaintiffs' motion is **DENIED IN PART** as to plaintiffs'  
3 request for an order compelling defendant to produce Ralph  
4 Cable for deposition. Plaintiffs did not comply with the  
5 procedures set forth in my initial discovery order required to  
6 obtain leave to bring a motion to compel on this issue.

7 Dated: September 17, 2008

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9 \_\_\_\_\_  
Bernard Zimmerman  
United States Magistrate Judge

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