

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 08-cv-01696-LTB-BNB

SHARON BRENNNA,

Plaintiff,

v.

KEN SALAZAR, Secretary, U.S. Department of Interior,

Defendant.

STIPULATED PROTECTIVE ORDER

This matter comes before the court on a Stipulated Protective Order. Plaintiff's First Request for Production of Documents pursuant to Fed. R. Civ. P. 34, requested that the Defendant produce Equal Employment Opportunity files alleging retaliation, performance evaluations, award records, and training records relating to third-party employees of the Rocky Mountain Regional Solicitor's Office of the Department of Interior. In response, the Defendant objected to disclosing these documents, asserting that disclosure of these records without a court order could be a violation of the Privacy Act "No Disclosure Without Consent Rule, 5 U.S.C. § 552a(b). In an effort to resolve this discovery dispute, the parties have submitted this Stipulated Protective Order. The Court having considered this matter finds that the requested discovery could lead to the discovery of admissible evidence, and HEREBY ORDERS:

1. Pursuant to 5 U.S.C. § 552a(b)(11), the Defendant is ordered to provide Plaintiff's counsel access to responsive documents, with the exception of medical records, contained in the Equal Employment Opportunity files of Lee Ineichen (Agency case # OS-05-017), and Susana Beck (Agency case #s OS-05-015 & OS-08-0402). Defendant is further ordered to provide Ms. Sweeney with copies of responsive documents if copies are requested. Plaintiff will be required to pay the United States Attorney's Office \$.25 per page for all pages that Plaintiff's counsel wants copied.

2. Documents released to Plaintiff's counsel pursuant to this order shall not, without the consent of Defendant's counsel or further Order of the Court, be further disclosed except to:

- (a) attorneys actively working on this case;
- (b) persons regularly employed or associated with the attorneys actively working on the case whose assistance is required by such attorneys in the preparation for trial, at trial, or at other proceedings in this case;
- (c) the Plaintiff;
- (d) expert witnesses and consultants retained in connection with this proceeding, to the extent such disclosure is necessary for preparation, trial or other proceedings in this case;
- (e) the Court and its employees ("Court Personnel");
- (f) stenographic reporters who are engaged in proceedings necessarily incident to the conduct of this action;

- (g) witnesses identified in the parties disclosures pursuant to Fed. R. Civ. P. 26(a); and
- (h) other persons by written agreement of the parties.

5. Prior to disclosing any documents release pursuant to this Protective Order to any person listed above (other than counsel, persons employed by counsel, Court Personnel and stenographic reporters), counsel shall provide such person with a copy of this Protective Order and obtain from such person a written acknowledgment stating that he or she has read this Protective Order and agrees to be bound by its provisions. All such acknowledgments shall be retained by counsel and shall be subject to in camera review by the Court if good cause for review is demonstrated by opposing counsel.

6. At the conclusion of this case, unless other arrangements are agreed upon, each document and all copies thereof which have been provided pursuant to this Protective Order shall be returned to Defendant's counsel.

7. This Protective Order may be modified by the Court at any time for good cause shown following notice to all parties and an opportunity for them to be heard.

Dated September 1, 2009.

BY THE COURT:

s/ Boyd N. Boland
United States Magistrate Judge

The parties, by their respective attorneys, agree and stipulate to the entry of this
PROTECTIVE ORDER.

s/Charlotte N. Sweeney
Charlotte N. Sweeney
630 S. Cherry St., Suite 610
Denver, CO 80246
(303) 865-3733
cnsweeney@sweeneybechtold.com

Attorney for Plaintiff

s/William G. Pharo
William G. Pharo
Assistant United States Attorney
1225 Seventeenth St., Suite 700
Denver, CO 80202
(303) 454-0100
william.pharo@usdoj.gov

Attorney for Defendant