

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

JAMES SOLIDAY,

Plaintiff,

vs.

Case No. 2:09-cv-807-FtM-29SPC

7-ELEVEN, INC.,

Defendant.

OPINION AND ORDER

This matter comes before the Court on Plaintiff's Motion in Limine to Exclude EEOC Determination (Doc. #98) filed on April 11, 2011. Defendant's Opposition (Doc. #106) was filed on April 18, 2011.

Plaintiff seeks an order precluding the admission of the findings of the U.S. Equal Employment Opportunity Commission (EEOC) and/or the Florida Commission on Human Relations concerning the charge of discrimination filed by plaintiff. The admission of such evidence is committed to the sound discretion of the trial court. Goldsmith v. Bagby Elevator Co., Inc., 513 F.3d 1261, 1288 (11th Cir. 2008). The Eleventh Circuit summarized the general principles:

EEOC determinations are generally admissible under the public records and reports exception to the hearsay rule contained in Federal Rule of Evidence 803(8)(C), unless "the sources of information or other circumstances indicate lack of trustworthiness" sufficient to justify exclusion from evidence. Barfield v. Orange County, 911 F.2d 644, 650-51 (11th Cir.1990); see Fed.R.Evid. 803(8)(C). However, EEOC determinations may be excluded

from evidence in a jury trial under Rule 403 where the probative value of the determination is "outweighed by the danger of creating unfair prejudice in the minds of a jury." Barfield, 911 F.2d at 650.

Blanton v. Univ. of Fla., 273 F. App'x 797, 804 (11th Cir. 2008).

The liberal admissibility of EEOC determinations does not apply to jury trial situations. Lathem v. Dep't of Children & Youth Servs., 172 F.3d 786, 791 (11th Cir. 1999). "Instead, the district court must make the admissibility determination on an individual basis, considering the evidence's probative value and the danger of unfair prejudice." Id.

Defendant quotes the pertinent part of the EEOC letter of determination as follows:

The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.

(Doc. #106, p. 3.)¹ The Court concludes that this non-finding is not relevant to this case, and that any minimal relevance is outweighed by prejudice, the danger of jury confusion, and the potential waste of judicial resources.


Accordingly, it is now

ORDERED:

¹While defendant refers to Exhibit A, no such exhibit is attached to the Response.

Plaintiff's Motion in Limine to Exclude EEOC Determination
(Doc. #98) is **GRANTED**.

DONE AND ORDERED at Fort Myers, Florida, this 20th day of
April, 2011.



JOHN E. STEELE
United States District Judge

Copies:
Counsel of record