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IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES EQUAL EMPLOYMENT)	
OPPORTUNITY COMMISSION,)	
)	
)	No. 05 CV 208
)	
Plaintiff,)	
)	
vs.)	Chicago, Illinois
)	
SIDLEY, AUSTIN, BROWN &)	
WOOD, L.L.P.,)	October 6, 2006
)	
Defendants.)	10:13 o'clock a.m.

TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE JAMES B. ZAGEL

For the Plaintiff:
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
BY: Deborah L. Hamilton
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For the Defendant:
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OCT 11 2006
CHICAGO DISTRICT CLERK

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1 opposed to substance.

2 There are some other disputes with respect to
3 substance, and that is that Sidley wants to have a lot of
4 information about mitigation, and some of this information is
5 sensitive, sensitive in two respects. Sensitive because, as
6 we know, perhaps no single individual whose case is being
7 plead by the EEOC has the slightest interest in having a case
8 pursued for professional reasons and maybe personal ones as
9 well.

10 So the kind of barrier that we never see in an
11 ordinary case where you have a truly willing plaintiff exists
12 here because we have at least some unwilling plaintiffs, and
13 even if they're privately willing they are publicly
14 unwilling.

15 So the ordinary willing plaintiff says, oh, this is a
16 pain in the neck, I don't want to give this stuff, but I want
17 the money, I want the remedy, I want the injunction, so I'll
18 go through it. But that incentive doesn't exist here for the
19 individual employee, partner, unknown status persons.

20 In addition to that, even if they were perfectly
21 willing individuals, there's some stuff particularly with
22 respect to firm partnership agreements that would drive any
23 sane lawyer crazy.

24 The short end of this is, I am willing to require
25 production of this but it will be under an extraordinarily

1 stringent protective order applicable to both the EEOC and
2 Sidley. You can devise one of your own, but these are the
3 sine qua non of such a protective order:

4 One, the information will be produced only pursuant
5 to a court order. The information can be given to only one
6 designated damage expert who can be advised by one attorney.
7 In the case of Sidley, it may not be a person employed by
8 Sidley, it has to be outside counsel. In the case of the
9 EEOC, it can be an EEOC attorney but only that one.

10 The only reason I'm permitting attorney access to it
11 is because a damage expert may not, in fact, understand the
12 implications of a partnership agreement. I think all of the
13 other stuff they'll understand, the compensation, but they may
14 not understand the significance of the partnership agreement.

15 The documents, the actual original documents, will be
16 placed under seal and held by the Court after examination with
17 something that will order the destruction after the litigation
18 is over. Or if the producers prefer, return it to them.
19 These will be papers for which copies may not be made.

20 I'm also toying with the idea of having them produce
21 only one copy which can be examined in turn by one side and
22 then the other. In this case, of course, it would be Sidley
23 that would go first because Sidley is the one that really
24 wants to look at it.

25 And I suspect in many cases this is not something