

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

UNITED STATES EQUAL EMPLOYMENT)	
OPPORTUNITY COMMISSION,)	Case No. 05 CV 0208
)	
Plaintiff,)	Honorable James B. Zagel
)	
v.)	Magistrate Judge Ashman
)	
SIDLEY AUSTIN LLP,)	
)	
Defendant.)	

**SIDLEY AUSTIN LLP’S MOTION FOR ENTRY OF AGREED
ORDER REGARDING WAIVER OF THE ATTORNEY-CLIENT
PRIVILEGE AS TO CERTAIN COMMUNICATIONS**

Sidley Austin LLP (“Sidley”), by and through its attorneys, and with the agreement of the EEOC, moves this Court to enter the attached Agreed Order setting forth the terms of the parties’ agreements regarding Sidley’s limited waivers of privilege as to certain communications specified in the Agreed Order. In support of this motion, Sidley states:

1. On the limited bases set forth in the attached Agreed Order, Sidley has agreed to waive its attorney-client privilege.
2. Sidley and the Equal Employment Opportunity Commission (“EEOC”) have negotiated an agreement regarding Sidley’s limited waivers of the attorney-client privilege in this action.
3. The terms of the parties’ agreement with respect to Sidley’s limited waivers are set forth in the Agreed Order, which is attached as Exhibit A.¹

¹ Pursuant to the Amended Protective Order entered in this case, the name of a putative claimant in this case has been replaced with “Former Partner” in the publicly-filed version of the Agreed Order. A version identifying the putative claimant by name has been filed under seal and submitted to the court to be entered under seal.

4. The parties seek an order of this Court that sets forth the terms of Sidley's limited waivers of the attorney-client privilege.

5. The EEOC has reviewed the attached Agreed Order and jointly seeks its entry.

WHEREFORE, Sidley respectfully requests that the Court enter the attached Agreed Order Regarding Waiver of the Attorney-Client Privilege as to Certain Communications.

Dated: March 28, 2007

Respectfully submitted,

SIDLEY AUSTIN LLP

By: /s/ Matthew A. Bills
One of Its Attorneys

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CERTIFICATE OF SERVICE

I, Matthew A. Bills, an attorney, hereby certify that on **March 28, 2007**, I caused a true and complete copy of the foregoing **SIDLEY AUSTIN LLP'S MOTION FOR ENTRY OF AGREED ORDER REGARDING WAIVER OF THE ATTORNEY-CLIENT PRIVILEGE AS TO CERTAIN COMMUNICATIONS** to be served by Electronic Mail Transmission via ECF as to Filing Users upon the following:

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/s/ Matthew A. Bills
Matthew A. Bills

EXHIBIT A

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**AGREED ORDER REGARDING WAIVER OF THE ATTORNEY-CLIENT
PRIVILEGE AS TO CERTAIN COMMUNICATIONS**

Pursuant to agreement of the parties, IT IS HEREBY ORDERED THAT:

1. Sidley Austin LLP (“Sidley”) shall waive the attorney-client privilege to the extent set forth in this Agreed Order.
2. Sidley’s waivers of the attorney-client privilege are limited as specifically set forth in this Agreed Order.
3. The Equal Employment Opportunity Commission (“EEOC”) shall not use the waivers set forth in this Agreed Order to argue that Sidley waived the attorney-client privilege with regard to any legal advice not specifically covered by the waivers set forth in this Agreed Order; however, the EEOC reserves the right to seek a broader attorney-client privilege waiver based on the information produced by Sidley, and Sidley reserves its rights to object to any such claim.
4. Sidley shall waive the attorney-client privilege for all legal advice received by Sidley prior to July 5, 2000 regarding the August-October 1999 decisions at issue in this case, the 1998/1999 deunitization decisions, and maintenance of an aged-based retirement policy,

practice, expectation or “opportunity” (as that term is used in documents that Sidley has produced in this lawsuit). This waiver will include advice given to Tom Cole by Former Partner in or about the Fall of 1998 relating to retirement in a general sense with regard to partners.

5. Sidley shall waive the attorney-client privilege for all legal advice received by Sidley prior to July 5, 2000 concerning whether the ADEA, Title VII, or the ADA covered and/or protected partners at Sidley. This waiver will include the advice Former Partner provided to Eden Martin in 1990 in the form of a “state of the law analysis.”

6. Sidley shall waive the attorney-client privilege with respect to legal advice given by Former Partner that any member of the Management Committee viewed as flawed. The waiver will include the legal memorandum authored by Former Partner and referred to in Mr. Battle’s deposition and any subsequent memoranda coming to an opposite conclusion from the Former Partner memorandum.

7. Sidley shall waive the attorney-client privilege with respect to legal advice, if any, given to Sidley’s Management Committee or Executive Committee by partners other than Former Partner between January 1, 1990 through and including October 1999 that any member of the Management Committee or Executive Committee stated and/or believed was flawed.

8. All documents and testimony revealed pursuant to Sidley’s waivers of the attorney-client privilege shall be designated “confidential” under the June 20, 2006 Amended Protective Order.

9. The waivers of the attorney-client privilege set forth herein shall take effect upon entry of this Agreed Order.

10. Because this Agreed Order contains the name of a putative claimant and information by which putative claimants could be identified, a version of this Agreed Order identifying the putative claimant as "Former Partner" shall be entered and filed publicly. **The version of this Agreed Order that identifies the putative claimant by name shall be entered and filed under seal with the Clerk of Court.**

Date: _____

Judge James B. Zagel