

# EXHIBIT Y1

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND

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EQUAL EMPLOYMENT OPPORTUNITY )  
COMMISSION, )  
 )  
PLAINTIFF, )  
 )  
VS. ) Case No. 8:07-CV-02612  
 )  
BLOCKBUSTER, INC., )  
 )  
DEFENDANT. )

\*\*\*\*\*

DEPOSITION OF  
SCOTT COLLEN  
June 24, 2008

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DEPOSITION OF SCOTT COLLEN, produced as a  
witness at the instance of the PLAINTIFF, and duly sworn,  
was taken in the above-styled and numbered cause on the  
24th day of June, 2008, from 9:29 a.m. to 5:00 p.m.,  
before Shayne Wimmer, CSR in and for the State of Texas,  
reported by machine shorthand, at the law offices of EEOC,  
207 S. Houston, 3rd Floor, Dallas, Texas 75202, pursuant  
to the Federal Rules of Civil Procedure and the provisions  
stated on the record or attached hereto.

1 A. There are three.

2 Q. Do you know what the regions are?

3 A. Yes.

4 Q. What are they?

5 A. Northeast, Southeast and West.

6 Q. At the time you were hired at Blockbuster in  
7 August of '04, was the division Eastern and Western?

8 A. It was Eastern and Western.

9 Q. Okay. Is it fair to say that the Gaithersburg,  
10 Maryland warehouse of Blockbuster -- strike that.

11 That the Gaithersburg warehouse, what's called a  
12 distribution center, that that has been within your sphere  
13 of responsibility ever since you started at Blockbuster.  
14 Is that true?

15 MS. SPEIGHTS: Objection. You can answer.

16 A. Yes. I've had responsibility for Gaithersburg.

17 Q. (By Mr. Phillips) So the Gaithersburg warehouse  
18 has always been within your territory?

19 A. Yes.

20 Q. Okay. When did that warehouse open?

21 A. By open -- I guess I would ask for  
22 clarification.

23 Q. When did the Gaithersburg distribution center  
24 first start actually engaging in distribution?

25 A. Of product?

1 Q. Yes.

2 A. Sometime around Thanksgiving of 2004.

3 Q. Okay. Can you tell me what your duties and  
4 responsibilities are as a Director of Regional Operations  
5 at Blockbuster?

6 A. Today?

7 Q. Today.

8 A. Today I have operational responsibility for 13  
9 distribution centers that includes hiring of distribution  
10 center managers. It includes approving processes within  
11 the distribution environment, planning for future needs of  
12 the business as it relates to the distribution of product,  
13 ensuring quality of service exists consistently throughout  
14 all distribution centers, to name a few.

15 Q. Have those duties ever changed since August  
16 2004?

17 A. Probably --

18 MS. SPEIGHTS: Objection. You can answer.

19 A. In August of 2004, a larger part of my role and  
20 responsibility was opening new distribution centers as  
21 opposed to today we don't open as many now that our  
22 network is built out.

23 Q. (By Mr. Phillips) Have your duties and  
24 responsibilities as a Director of Regional Operations  
25 changed in any other way between August 2004 and today?

1 document called a Corrective Action Form? Are you  
2 familiar with that document?

3 A. Yes, I am.

4 Q. In your capacity as a Director of Regional  
5 Operations, you have prepared such documents in the past,  
6 true?

7 A. I have prepared them.

8 Q. Okay. Did your duties and responsibilities back  
9 during the 2004/2005 time frame include ensuring that  
10 distribution centers were run in accordance with  
11 Blockbuster antidiscrimination and antiharassment  
12 policies?

13 MS. SPEIGHTS: Objection. You can answer.

14 Q. (By Mr. Phillips) You can answer.

15 A. I would say I was responsible for running them  
16 according to all policies, not just those policies.

17 Q. Can you tell me what specific duties and  
18 responsibilities you had during the 2004/2005 time frame  
19 that related to Blockbuster's antidiscrimination or  
20 antiharassment policies?

21 MS. SPEIGHTS: Objection. You can answer.

22 A. Can you restate the question?

23 Q. (By Mr. Phillips) Sure. First of all, let's be  
24 clear. During the 2004/2005 time frame, did Blockbuster  
25 have a policy prohibiting discrimination or harassment in

1 the workplace?

2 A. Yes.

3 Q. Did that policy in any way relate to your job  
4 duties as a Director of Regional Operations? Did you have  
5 any responsibilities implementing that?

6 MS. SPEIGHTS: Objection. You can answer.

7 Q. (By Mr. Phillips) You can answer that.

8 A. I guess I don't understand the question.

9 Q. Okay. Let me be more specific. Were part of  
10 your job duties during the 2004/2005 time frame, did they  
11 include conducting internal investigations of possible  
12 sexual harassment or national origin harassment?

13 A. Yes.

14 Q. Okay. Did part of your job duties also include  
15 investigating potential retaliation related to internal  
16 complaints of harassment, sexual or national origin in  
17 nature?

18 A. Not to my knowledge.

19 Q. Did part of your responsibilities during that  
20 time frame include taking corrective action in instances  
21 where you found sexual harassment or national origin  
22 harassment?

23 MS. SPEIGHTS: Objection. You can answer.

24 A. Can you rephrase the question?

25 Q. (By Mr. Phillips) Sure. Did part of your

1 Q. Was this the e-mail that was forwarded to you by  
2 Cinnie Brown?

3 A. I don't believe it was forwarded to me by Cinnie  
4 Brown.

5 Q. Okay. Was it forwarded to you by anybody?

6 A. I believe it was forwarded to me by either June  
7 Davis or Jennifer Fitzgerald.

8 Q. When was it forwarded to you by June Davis or  
9 Jennifer Fitzgerald?

10 A. I couldn't tell you.

11 Q. Is it fair to say that it was during the same  
12 time frame as March 7th, 2005?

13 A. Obviously it would have to be after that, but I  
14 would think it would be sometime after that.

15 Q. But it was forwarded to you before you conducted  
16 your investigation at the Gaithersburg warehouse?

17 A. I believe so.

18 Q. Having read Collen Exhibit 2, does this refresh  
19 your recollection now as to the specifics of the  
20 allegations that were being made by Michelle Despertt  
21 against Thomas Johnson?

22 A. Yes.

23 Q. Okay. Having read Collen Exhibit 2 -- first of  
24 all, let's go down to -- you see almost toward the end  
25 there's a reference to Say Wing? Do you see that?

1 A. Not necessarily.

2 Q. The main thing is to get HR involved?

3 A. That is correct.

4 Q. Okay. This reference to GLs in the second  
5 sentence, that's group leads, correct?

6 A. That would be correct.

7 Q. So the group leads at the time of this e-mail in  
8 Gaithersburg would have been Mr. Johnson and Kofi Tutu; is  
9 that correct?

10 A. I believe that's correct.

11 Q. What's the problem with group leads being  
12 involved in disciplinary, termination or corrective  
13 actions with employees?

14 A. Why do we not allow that?

15 Q. Yes, sir..

16 A. Group leads are an hourly employee and not  
17 considered a member of management.

18 Q. What are the duties of a group lead? Again,  
19 we're talking about the 2004/2005 time frame.

20 A. Generally speaking, they were responsible for  
21 training employees or temporary employees. I believe they  
22 helped transport mail to and from the postal service.  
23 They provided quality inspections of the work flow. They  
24 were able to perform any task within the distribution  
25 center. They provided a general direction of managing



1 what I call hour by hour needs throughout the different  
2 processes. So making sure the right quantity of employees  
3 are in the right area within the distribution center at a  
4 time to accomplish the day's work.

5 Q. That would include, for example, directing  
6 employees to do various kinds of tasks or how to do those  
7 tasks, correct?

8 A. How to do the task would be training, yes. What  
9 to do would be telling them or moving them from one  
10 assignment to another one, yes.

11 Q. Let's go down to the next sentence. When I  
12 called Cinnie to give her an update, she requested the  
13 following in writing: No. 1, written statement related to  
14 the SH charge from Taj; No. 2, written statement related  
15 to the SH charge from Linc; No. 3, a list of actions that  
16 BB was taking related to this issue. She mentioned SH  
17 training for Taj and/or Linc as an example.

18 Then the next line down, I told Cinnie that her  
19 request was beyond my ability to make the decision as to  
20 what information we would or would not share with a  
21 staffing firm. I suggested that she make the request for  
22 information to June and that at the same time I would  
23 alert you to the fact that the request had been made.

24 Do you know if Ms. Brown ever received the  
25 information she requested there?

1 employed there, and is still doing the same things.

2 Did anybody at Blockbuster follow up on this  
3 allegation by Ms. Despertt that Mr. Johnson is quote,  
4 unquote, still doing the same things?

5 A. I can't recall.

6 Q. Do you know if -- did you follow up on it?

7 A. Not to my recollection specifically, no.

8 Q. Do you have any general recollection of doing  
9 anything in response to this allegation by Ms. Despertt?

10 A. In response to that, no.

11 Q. Okay. Do you have any recollection of doing  
12 anything regarding Michelle Despertt's allegations after  
13 March of 2005 other than sending you these e-mails?

14 A. The only recollection I would say is I believe I  
15 recall this allegation, the Michelle Despertt allegation,  
16 being discussed during a meeting in preparation for some  
17 investigation at the facility in May of '05.

18 Q. Was this a meeting when you, Barry Francis, Drew  
19 Lenear and Cinnie Brown?

20 A. I believe that would be correct.

21 Q. This would have been up in Towson at the Express  
22 office up there?

23 A. I believe that's correct.

24 Q. What did you talk about regarding the Despertt  
25 complaint?

1 those?

2 A. Blockbuster provided those.

3 Q. Who was responsible for directing the activities  
4 of these Express Personnel workers on a day-to-day basis  
5 when they were at the warehouse?

6 A. Can you repeat the question?

7 Q. Who supervised the temporaries' work when they  
8 were in the Gaithersburg warehouse?

9 A. Lincoln Barrett.

10 Q. He was responsible for assigning their tasks  
11 within the warehouse?

12 A. He or one of his group leads would assign tasks.

13 Q. Do you know if these Express Personnel temporary  
14 workers were provided with training on how to perform  
15 their duties in the warehouse?

16 A. To the best of my knowledge, yes.

17 Q. Who provided that training?

18 A. I can't say for sure who would have.

19 Q. Is it fair to say it would have been Mr. Barrett  
20 or someone he designated?

21 A. That would probably be correct.

22 Q. You mentioned earlier productivity level being a  
23 criterion for deciding who to convert from temporary to a  
24 permanent employee?

25 A. That's correct.

1 A. I believe that would be correct.

2 Q. Why was Ms. Brown involved in that? Why didn't  
3 Mr. Barrett just communicate that directly?

4 A. She was the employer of the employee.

5 Q. Do you know how that was done prior to this  
6 May '05 time frame?

7 A. I do not.

8 MR. PHILLIPS: Let's go off the record a  
9 minute.

10 (A break was taken)

11 Q. (By Mr. Phillips) Do you know if the permanent  
12 Blockbuster employees who were working at the Gaithersburg  
13 warehouse during the 2004/2005 time frame received copies  
14 of the Blockbuster antiharassment or discrimination  
15 policy?

16 A. I believe they did as part of their new hiring  
17 process.

18 Q. Do you know why Blockbuster gives copies of that  
19 policy to their employees?

20 A. I don't know why.

21 Q. Do you know if those permanent employees at the  
22 Gaithersburg warehouse were given information about the  
23 complaint procedure, if they had a complaint of harassment  
24 or discrimination?

25 A. I can't be for certain.

1 Q. Do you know from experience that Blockbuster  
2 employees generally get that information?

3 A. From experience they do.

4 Q. Does anyone at Blockbuster provide -- strike  
5 that.

6 Does anyone at Blockbuster check to make sure  
7 that the permanent employees get that information?

8 A. It's the responsibility of the hiring manager.

9 Q. Who in this case would be the distribution  
10 center manager?

11 A. That would be correct.

12 Q. During this period of 2004 to 2005 when there  
13 were Express Personnel temp workers working at the  
14 Gaithersburg warehouse, what was the process for them to  
15 complain about harassment or discrimination?

16 A. I can't confirm exactly what their process was.

17 Q. Is it your understanding that they should be  
18 reporting those things to Express?

19 A. That would be a primary way, yes.

20 Q. Are there any other ways?

21 A. Not to my knowledge.

22 MR. PHILLIPS: I'm going to mark this as  
23 Collen Exhibit 7.

24 (Exhibit 7 marked)

25 Q. (By Mr. Phillips) I only have one copy. I just

1 I, SCOTT COLLEN, have read the foregoing  
2 deposition and hereby affix my signature that same is true  
3 and correct, except as noted above.

4

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\_\_\_\_\_

6 SCOTT COLLEN

7

8 THE STATE OF \_\_\_\_\_)

9 COUNTY OF \_\_\_\_\_)

10

11 Before me, \_\_\_\_\_, on this  
12 day personally appeared SCOTT COLLEN, known to me (or  
13 proved to me under oath or through  
14 \_\_\_\_\_) to be the person whose name  
15 is subscribed to the foregoing instrument and acknowledged  
16 to me that they executed the same for the purposes and  
17 consideration therein expressed.

18

19 Given under my hand and seal of office this  
20 \_\_\_\_\_ day of \_\_\_\_\_, 2008.

21

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\_\_\_\_\_

24 NOTARY PUBLIC IN AND FOR

25

THE STATE OF \_\_\_\_\_