

BEFORE: PEGGY KUO  
U.S. MAGISTRATE JUDGE

DATE: 4/13/2017  
START TIME: 10:19 a.m.  
END TIME: 12:30 p.m.  
DISTRICT JUDGE: ENV

DOCKET NO. CV-15-5370

CASE NAME: EEOC v. AZ Metro Distributors, LLC

CIVIL CONFERENCE

PURPOSE OF CONFERENCE: Motion Hearing

APPEARANCES: Plaintiff:

Kirsten J. Peters, Esq.  
Jeffrey Burstein, Esq.

Defendant:

Christopher P. Keenan, Esq.

**SCHEDULINGS AND RULINGS:**

1. With respect to Plaintiff's Motion for Protective Order or to Quash Subpoenas at [97], the Court found that the Motion is moot with regard to the Subpoena served on Diversified Consulting. The Court deferred ruling on the Motion with regard to the remaining subpoenas.
2. The Court set the following schedule for supplemental briefing on the relevance of communications to and from Monique Roberts, unrelated to the Motion to Strike Affirmative Defenses:
  - a. Defendant shall file its Supplemental Brief, of maximum 5 pages, by **April 28, 2017**;
  - b. Plaintiff shall file its Supplemental Brief in Response, of maximum 5 pages, by **May 12, 2017**;
  - c. No Reply Brief shall be permitted.
  - d. A Telephone Conference is scheduled for **June 1, 2017 at 10:00 a.m.** Defendant's counsel shall initiate the call, with Plaintiff's counsel on the line, by calling Chambers as 718-613-2400.
3. With respect to Defendant's Motion to Compel Further 30(b)(6) Depositions of EEOC at [94], the Court heard argument and ruled as follows:

- a. Defendant's request to re-open the 30(b)(6) deposition of Arlean Nieto is granted. Ms. Nieto is not required to review the EEOC's Investigative File but is directed to clearly answer any questions concerning factual information outside of the Investigative File in accordance with the Court's ruling at [67], point 2(b), including questions concerning the source of her knowledge of facts outside of the Investigative File. Defendant may not ask Ms. Nieto questions which she has already answered in her prior deposition testimony.
  - b. The Court denied Defendant's request for attorney's fees and costs related to this Motion and the re-opening of Ms. Nieto's deposition.
4. The Court granted Defendant's Motion to Compel Production of Documents for *In Camera* Review at [95]. The Court heard argument on Plaintiff's assertions of the government deliberative process privilege and attorney-client privilege, and reviewed the following seventeen documents from Plaintiff's November 1, 2016 Privilege Log at [95-1]: 3, 11, 13, 16, 17, 18, 21, 23, 24, 25, 26, 27, 28, 30, 31, 32, and 34. The Court ruled that all seventeen documents are protected by privilege and thus may be withheld from production by Plaintiff.
5. The Court directed Plaintiff's counsel to inform Defendant's counsel of the date and time of the deposition of Tom Marigliano, Defendant's former employee, so that Defendant's counsel may attend.