

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,

Plaintiff,

vs.

Civil Action 2:09-CV-864
Judge Smith
Magistrate Judge King

JP MORGAN CHASE BANK, N.A.,

Defendant.

OPINION AND ORDER

Plaintiff Equal Employment Opportunity Commission ("EEOC") claims in this action that defendant JP Morgan Chase Bank, N.A. ("Chase") subjected female employees, as a class, to terms and conditions that differed from those of similarly situated male employees, in violation of Title VII, 42 U.S.C. § 2000e-5, as amended by 42 U.S.C. § 1981a. This matter is before the Court on Chase's three motions to stay: *Defendant's Motion to Stay the Court's Ruling on Plaintiff's Pending Motion to Compel Complete Answers to EEOC's Second Document Requests* (Doc. #30), Doc. No. 48; *Defendant's Motion to Stay the Court's Ruling on Plaintiff's Pending Motion to Compel Fed. R. Civ. P. 30(B)(6) Depositions* (Doc. #24), Doc. No. 49; and *Defendant's Motion to Stay the Court's Ruling on Its Pending Motion for Partial Summary Judgment* (Doc. #27), Doc. No. 50 (collectively, "motions to stay").

The Court has previously set forth at length the factual background of this action. See *Opinion and Order*, Doc. No. 42. Briefly, Aimée Doneyhue worked as a mortgage/home loan sales

originator in the sales department of Chase's Polaris Park, Columbus, Ohio facility ("Sales Department" and "the Polaris facility") from April 2007 until May 2, 2008. *Id.*; *Amended Complaint*, Doc. No. 9, ¶ 7. After her employment with Chase ended, Ms. Doneyhue filed a charge with the EEOC alleging that Chase had violated her rights under Title VII. *Amended Complaint*, ¶ 6. Unable to resolve the dispute at the administrative level, the EEOC filed the original *Complaint*, Doc. No. 2, which was transferred to this seat of court. *Order*, Doc. No. 3. The EEOC subsequently filed the *Amended Complaint*, alleging, *inter alia*, that Chase engaged in unlawful employment practices, which "deprive[d] Aimee Doneyhue and similarly situated current and former female employees who worked at Defendant's Polaris Park facility during the period from July 8, 2006 to the present, of equal employment opportunities, on the basis of sex and Doneyhue's engaging in conduct protected by Title VII." *Amended Complaint*, ¶¶ 7-8. The EEOC seeks injunctive and monetary relief on behalf of Ms. Doneyhue and the putative class.

At the initial pretrial conference, the Court established a discovery completion deadline of June 11, 2011. *Preliminary Pretrial Order*, Doc. No. 17. After discovery commenced, Chase began the deposition of Ms. Doneyhue on August 30, 2010. *Exhibit 2*, attached to Doc. No. 52. However, Chase did not complete her deposition because Ms. Doneyhue, without prior notice to defense counsel, stated that she had to leave to care for her children. *Id.*¹ Counsel for the parties

¹At the time of her departure, Chase had not exceeded the seven-hour limitation imposed by the Federal Rules of Civil Procedure. *Id.* The EEOC represents in its memorandum that Chase deposed Ms. Doneyhue for six hours. Doc. No. 51, p. 2.

agreed to resume the deposition on January 21, 2011. *Tab C*, attached to *Affidavit of Angelique Paul Newcomb* ("Newcomb Affidavit"), attached as *Exhibit 1* to Doc. No. 50. On January 20, 2011, however, counsel for the EEOC advised defense counsel: "Aimee Doneyhue will not be appearing for the remainder of her deposition. EEOC is withdrawing her as a witness and as a claimant." *Tab D*, attached to *Newcomb Affidavit*. Thereafter, Chase subpoenaed Ms. Doneyhue's deposition, scheduling the deposition for March 15, 2011. Doc. No. 55.

In the meantime, the EEOC served written discovery and notice of Rule 30(b)(6) depositions. After the parties were unable to resolve their dispute regarding this discovery, the EEOC filed two motions to compel. Doc. Nos. 24 ("*Motion to Compel Rule 30(b)(6) Depositions*") and 30 ("*Motion to Compel Responses to Second Document Requests*"). Around the same time, Chase also filed a motion for partial summary judgment. Doc. No. 27. These three motions are now fully briefed and are ripe for resolution.

Chase represents that it intends to ask Ms. Doneyhue at her continued deposition "whether she is making any claims with respect to the ACD [automated call distribution] system," which Chase believes is relevant to the issue of "similarly situated" employees. Doc. No. 56, p. 2; Doc. No. 57, p. 2; Doc. No. 58, pp. 1-2. Chase further explains that, should it discover that Ms. Doneyhue asserts no claims as to the ACD system, then discovery relating to that system is irrelevant because female employees who do assert such a claim cannot be similarly situated to Ms. Doneyhue. Chase therefore asks the Court to stay resolution of the two motions to compel and Chase's motion for partial summary judgment until Chase (1) completes the deposition of

Ms. Doneyhue and, if necessary and with with the Court's permission, (2) files a sur-reply to the pending motions to compel and motion for summary judgment, supplementing the briefing with information gleaned from Ms. Doneyhue's continued deposition. Doc. Nos. 48, 49 and 50. The EEOC opposes Chase's motions to stay, arguing that no good cause exists for delaying resolution of the motions. Doc. No. 51.

"Matters of docket control and conduct of discovery are committed to the sound discretion of the district court." *In re Air Crash Disaster*, 86 F.3d 498, 516 (6th Cir. 1996) (internal quotation marks omitted). See also *ACLU of Ky. v. McCreary County*, 607 F.3d 439, 451 (6th Cir. 2010) ("[A] district court has broad discretion to manage its docket."). In reviewing the memoranda related to the requests to stay and related to the pending discovery motions, the Court is not persuaded that a stay of these rulings is warranted. Moreover, as discussed *supra*, the Court has established a discovery deadline of June 11, 2011. *Preliminary Pretrial Order*. Further delay in ruling on the discovery motions may be disruptive to the case schedule. Similarly, the Court sees no reason to stay ruling on the motion for partial summary judgment, which is fully briefed and ripe for resolution. If, after finishing Ms. Doneyhue's deposition, the Court has not already issued a ruling on the motion for partial summary judgment and Chase believes that her recent testimony is relevant to the resolution of that motion, Chase may file a motion for leave to supplement its memoranda relating to that motion. Accordingly, under these circumstances, the Court concludes that its discretion is better exercised in denying the requested stay. *Cf. In re Air Crash Disaster*, 86 F.3d at 516.

WHEREUPON, Defendant's Motion to Stay the Court's Ruling on Plaintiff's Pending Motion to Compel Complete Answers to EEOC's Second Document Requests (Doc. #30), Doc. No. 48, is **DENIED**; Defendant's Motion to Stay the Court's Ruling on Plaintiff's Pending Motion to Compel Fed. R. Civ. P. 30(B)(6) Depositions (Doc. #24), Doc. No. 49, is **DENIED**; and Defendant's Motion to Stay the Court's Ruling on Its Pending Motion for Partial Summary Judgment (Doc. #27), Doc. No. 50, is **DENIED**.

March 15, 2011

s/Norah McCann King
Norah McCann King
United States Magistrate Judge