

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

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,

Plaintiff,

vs.

Civil Action 2:13-cv-780
Judge Frost
Magistrate Judge King

OHIOHEALTH CORPORATION,

Defendant.

OPINION AND ORDER

Plaintiff the Equal Employment Opportunity Commission brings this action on behalf of Laura Stone, alleging that defendant OhioHealth Corporation discriminated against Ms. Stone in contravention of the ADA, 42 U.S.C. § 12101 *et seq.*, when it failed to reasonably accommodate her disability, *i.e.*, narcolepsy, and terminated Ms. Stone's employment because of her disability. The *Complaint*, ECF 1, specifically alleges that defendant denied Ms. Stone's request for a reasonable accommodation when it denied her request for reassignment to a vacant day shift position for which she was qualified, including the vacant day shift positions for Scheduling Coordinator, Senior Medical Records Associate, and Patient Support Assistant. *Id.* at ¶¶ 12-17. The *Complaint* further alleges that Ms. Stone "attempted to engage in an interactive process with Defendant regarding her medical leave of absence and reassignment to a vacant day shift position as a reasonable accommodation," but that defendant "rebuffed Ms. Stone's

efforts and failed to offer any reasonable effective alternatives.”
Id. at ¶ 16.

On October 20, 2014, the Court granted plaintiff’s motion to compel, ECF 18, and ordered defendant to respond to Plaintiff’s Interrogatory Nos. 3 and 4 and to Plaintiff’s Request for Documents Nos. 4, 6, and 9 by November 11, 2014. *Opinion and Order*, ECF 39. Defendant objected to that order on November 6, 2014, arguing that documents related to vacant day shift positions posted between August 1, 2009 and May 31, 2010, and for which plaintiff did not apply, are irrelevant and would be unduly burdensome to produce. ECF 41.

Defendant requested additional time to comply with the Court’s October 20, 2014 *Opinion and Order*, and, on November 7, 2014, the Court directed the parties to discuss the scope of the production required of defendant. *Order*, ECF 43. On December 5, 2014, the parties filed a *Joint Status Report*, ECF 47, representing that only Interrogatory No. 3 and Document Request No. 9 remain at issue. The parties have agreed that production of certain emails on December 10, 2014 will sufficiently respond to Document Request No. 9. *Id.*

Interrogatory No. 3 addresses “the process by which Defendant solicited, received, screened, and processed applications for the day-shift positions . . . that were or became vacant between August 1, 2009 and May 31, 2010 at any of Defendant’s locations.” ECF 18-3, p. 4. Interrogatory No. 3 specifies that defendant’s response should include, *inter alia*, the “manner in which each vacancy was announced and the date of the announcement” and the “time period for which

applications were considered active for each position." *Id.*

In response to Interrogatory No. 3, defendant produced "the following information for each of the 800-plus vacancies between August 1, 2009, and May 31, 2010: the authorized date, closed date, cancelled date, hiring manager, and individual hired." *Joint Status Report*, p. 1. Defendant "provid[ed] the authorized date because the actual posted date could not be easily determined." *Id.* Defendant represented that "typically the posting would be made on or about the authorized date," "the authorized date is the best indication of when the job was posted, and . . . the actual posting date [can] not be easily obtained (if at all)." *Id.* at p. 2. Plaintiff argues that defendant's response is deficient because "the date on which OhioHealth authorized hiring for a vacant position may differ from the date on which it began to consider candidates for that vacancy." *Id.*

Plaintiff has not articulated the significance of the date on which defendant began to consider candidates for vacant positions, as opposed to the date on which defendant authorized the position, and it has not disputed the burden to defendant in providing such information. Moreover, Interrogatory No. 3 does not specifically seek the date on which defendant began to consider applicants for each position; rather, Interrogatory No. 3 seeks "[t]he time period for which applications were considered active for each position." ECF 18-3, p. 4. Considering the foregoing, the Court concludes that defendant has substantially satisfied its obligation in response to Interrogatory No. 3 and has substantially complied with the Court's

October 20, 2014 *Opinion and Order*.

It appears that, under these circumstances, defendant intends to withdraw its objections to the October 20, 2014 *Opinion and Order*. See *Joint Status Report*, ECF 45, p. 3. Defendant is **DIRECTED** to indicate, no later than December 12, 2014, whether its *Objection*, ECF 41, remains viable.

December 10, 2014

s/Norah McCann King
Norah M^cCann King
United States Magistrate Judge