

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT DAYTON

ROXANNA HURST,

Plaintiff,

vs.

VILLAGE OF ENON, *et al.*,

Defendants.

Case No.: 3:14-cv-052

Judge Walter H. Rice

Magistrate Judge Michael J. Newman

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**ORDER**

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On May 21, 2014, the Court held an informal discovery conference, pursuant to S.D. Ohio Civ. R. 37.1, with counsel for both sides. Multiple discovery issues were then raised; at the end of the call, the Court took the matters under submission.

**I.**

This is an employment discrimination case that arises from Plaintiff's former employment as a police officer with the Village of Enon. Plaintiff claims that Defendants discriminated against her because of her gender. Doc. 1. Plaintiff brings suit pursuant to Title VII, § 1983, and Ohio law. *Id.* Defendants argue that the conditions of Plaintiff's employment were commensurate with her status as a probationary employee, and that her employment was terminated because she violated a direct order regarding her conduct while on sick leave. Doc. 11.

Defendants advised the Court that they seek information regarding Plaintiff's current and former employment, and asked Plaintiff to sign a release form authorizing production of her employment records in lieu of serving subpoenas on these third parties. Plaintiff's counsel objected to this informal request on multiple grounds. This dispute precipitated the May 21st call.

## II.

First, Plaintiff's counsel is correct that such releases, concerning personnel records, are not required by the Federal Rules of Civil Procedure. *See Grant v. Target Corp.*, 281 F.R.D. 299, 307 (S.D. Ohio 2012). Defendants' counsel advised the Court that it sought to obtain such documents via signed releases as a courtesy to opposing counsel and in an effort to avoid the service of subpoenas and unnecessary motion practice. The Court **ORDERS** the parties to conduct discovery in conformance with the Federal Rules of Civil Procedure.

Second, the Court takes issue with Plaintiff's suggestion that it is inappropriate for Defendants to inquire into Plaintiff's past employment. Discovery under the Federal Rules is broad; the purpose of discovery is to determine the merits of the claims and defenses before the Court. *Fed. R. Civ. P. 26(b)(1)*; *Lewis v. ACB Bus. Servs., Inc.*, 135 F.3d 389, 402 (6th Cir. 1998). The Court notes, without ruling, that inquiry into matters such as the hours Plaintiff regularly worked in her prior places of employment and her prior work as a law enforcement officer may be relevant, and discovery on such issues may occur. *Langenfeld v. Armstrong World Indus.*, No. 2:13-cv-469, 2014 WL 287386, at \*3-4 (S.D. Ohio Jan. 24, 2014); *Levitin v. Nationwide Mut. Ins. Co.*, No. 2:12-cv-34, 2012 WL 6552814, at \*3-6 (S.D. Ohio Dec. 14, 2012).

Third, Plaintiff's counsel suggests that Defendants should depose Plaintiff now, conduct follow-up paper discovery if necessary, and then seek to re-depose Plaintiff if they have further areas of inquiry. The Court will not decide the order of discovery to be taken in this case. If Plaintiff's counsel agrees to having his client deposed on two occasions, the schedule suggested by Plaintiff's counsel is certainly one way in which discovery can occur here. As Defendants' counsel correctly points out, however, Defendants have a right to collect responses to all of their

paper discovery, and all of the answers to their interrogatories, and then depose Plaintiff on one occasion. The Federal Rules do not dictate the order in which discovery must occur, but it is this Judge's experience that the method suggested by Defendants' counsel is far more typical in employment discrimination cases than the two-deposition model suggested by Plaintiff's counsel. *See* Fed. R. Civ. P. 30(a)(2)(A)(ii); *EEOC v. Honda of Am. Mfg., Inc.*, No. 2:06-cv-233, 2008 U.S. Dist. LEXIS 15708, at \*17-20 (S.D. Ohio Feb. 13, 2008).

Finally, both sides suggested to the Court during the call that a Protective Order would be appropriate here given the confidential nature of the discovery at issue. The Court agrees, and directs the parties to submit a draft Protective Order, in Word format, to the chambers email address (newman\_chambers@ohsd.uscourts.gov) on or before **June 9, 2014**.

**IT IS SO ORDERED.**

May 27, 2014

s/ **Michael J. Newman**  
United States Magistrate Judge