

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

THE SELECT FAMILY OF)	
STAFFING COMPANIES,)	
)	
Plaintiff,)	
)	
v.)	No. 10-2534-M1/P
)	
THE UNITED STATES EQUAL EMPLOYMENT)	
OPPORTUNITY COMMISSION,)	
)	
Defendant.)	
)	
)	

THE UNITED STATES EQUAL EMPLOYMENT,)	
OPPORTUNITY)	
)	
Applicant,)	No. 10-2589-M1/P
)	
v.)	
)	
THE SELECT FAMILY OF STAFFING)	
COMPANIES,)	
)	
Respondent.)	
)	

REPORT AND RECOMMENDATION
ON EEOC'S MOTION TO DISMISS COMPLAINT AND APPLICATION FOR ORDER
TO SHOW CAUSE WHY SUBPOENA SHOULD NOT BE ENFORCED
AND
ORDER DENYING AS MOOT SELECT FAMILY'S MOTION TO STRIKE
DECLARATION OF KATHARINE KORES

Before the court are the following motions: the Equal Employment Opportunity Commission's ("EEOC") Motion to Dismiss the Complaint (Case No. 10-2534, D.E. 7), the EEOC's Application for Order to Show Cause Why an Administrative Subpoena Should Not Be

Enforced (Case No. 10-2589, D.E. 1), and The Select Family of Staffing Companies ("Select Family") Motion to Strike Declaration of Katharine Kores, District Director of the EEOC (Case No. 10-2534, D.E. 16). The EEOC's motion to dismiss and application for an order to show cause were referred to the magistrate judge for a report and recommendation. Select Family's motion to strike was referred for determination.

On December 9, 2010 and January 14, 2011, the undersigned magistrate judge held hearings on the motions. The parties announced at the January 14 hearing that they believed they had resolved all issues raised in the pending motions, and requested additional time to finalize their agreement. On March 22, 2011, the parties submitted their joint agreement to the court, signed by counsel for all parties, which provides as follows:

The Parties have advised the Court that they have reached an agreement on all matters before the Court. The Parties agree as follows:

1. This agreement applies and limits all outstanding requests for information and documents in the following EEOC investigations:

Deanna Dobb - Charge No. 490-2007-00029
Lasabra Epps - Charge No. 490-2007-00028
JaBonn Bond - Charge No. 490-2009-00415
Vera Willingham - Charge No. 490-2008-03129

2. Select will allow the Commission to inspect and scan the 469 files at the office of counsel for Select, Jackson Lewis, located at 999 South Shady Grove Road, Suite 110, Memphis, Tennessee 38120.

- During the inspection and scanning of the files, a representative of Jackson Lewis will be present.
3. The Commission will credit Select with the production of 331 files already produced and provided to the Commission.
 4. Select will make the documents available for inspection and scanning on or before May 1, 2011.

Because the Parties resolved all matters pertaining to the subpoena enforcement action, the Application to Show Cause Why a Subpoena Should not Be Enforced and the Motion to Strike the Declaration of District Director Katherine Kores are dismissed. As a result of the dismissal of the subpoena enforcement proceeding, the Parties agree that Select's Complaint against the Commission under the Administrative Procedures Act is moot. Accordingly, the Complaint is dismissed.

The Court will retain jurisdiction over any dispute arising concerning the terms or requirements of the agreement, but the Court will administratively close the case pending notification by the Parties that the agreement has been fully performed.

The Parties will bear their own costs and attorneys' fees.

Based on the agreement reached by the parties, it is hereby ORDERED that the motion to strike the declaration of Katharine Kores be DENIED.

Furthermore, it is RECOMMENDED that the court dismiss both actions pursuant to the parties' agreement.

Respectfully submitted,

s/ Tu M. Pham
TU M. PHAM
United States Magistrate Judge

March 22, 2011
Date

