



1 they complained about the harassment. The jury will be asked to decide these issues based on  
2 admissible evidence.

3 Defendant argues that it must be permitted to depose the EEOC investigator,  
4 William Bennett, to clarify ambiguities in the interview summaries he created and to resolve  
5 conflicts between the summaries and the deposition testimony of Mr. Lam, Ms. Rios, Kathy  
6 Kolder, and Arthur Squires. Whether the interview summaries related to these four individuals  
7 will be admissible at trial is unclear. Assuming one or more of the interview summaries is  
8 admissible, defendant should have an opportunity to question Mr. Bennett regarding (a) the  
9 meaning of any unclear or ambiguous entries, (b) his independent recollection, if any, of certain  
10 statements being made during the interviews, and (c) the process that led to the creation of the  
11 summary in order to confirm or disprove its accuracy. See EEOC v. Cal. Psychiatric  
12 Transitions, 258 F.R.D. 391, 397-98 (E.D. Cal. 2009) (allowing deposition of EEOC investigator  
13 in order “to clarify ambiguities related to the factual aspects of the material” and to resolve  
14 disputes regarding whether particular statements were accurately recorded).

15 (3) Defendant has expressly disavowed any interest in the investigator’s subjective  
16 opinions or credibility determinations, the scope or adequacy of the overall investigation, or the  
17 deliberative process that led to the filing of this lawsuit. Evidence regarding these topics would  
18 be irrelevant and/or would impinge on the deliberative process or attorney/client privileges. See  
19 Id. Defense counsel shall, therefore, limit the questioning to the topics listed in paragraph (2).

20 (4) Given the limited and rather perfunctory topics on which Mr. Bennett can be  
21 questioned and the EEOC’s legitimate concerns regarding time away from investigative duties,  
22 Mr. Bennett’s deposition will be limited to one hour at a mutually convenient time and place.

23  
24 For all of the foregoing reasons, defendant’s motion to compel the depositions of  
25 three EEOC investigators is GRANTED in part.

Dated this 21st day of February, 2012.

Robert S. Lasnik

Robert S. Lasnik  
United States District Judge

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