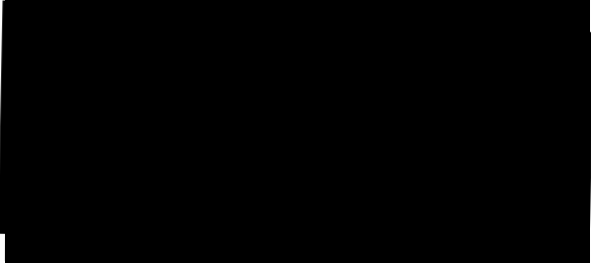


FILED
U.S. DISTRICT COURT
DISTRICT OF WYOMING

JUL 23 2008

Stephan Harris, Clerk
Cheyenne

United States District Court
For The District of Wyoming



Defendant.

Civil No. 07-CV-192-B

ORDER DENYING DEFENDANT'S MOTION TO COMPEL

THIS MATTER having come before the Court on defendant's Motion to Compel, and the Court having carefully considered the motion and response thereto, and being fully advised in the premises, FINDS:

1. This case originally comes before the Court on plaintiffs' claims for gender discrimination, retaliation, and intentional infliction of emotional distress stemming from sexual harassment they assert they endured while working for defendant from September 2002 through 2007. Specifically, plaintiffs allege that their co-worker [REDACTED] created a sexual hostile working environment by making jokes, using vulgar language, and inappropriately touching plaintiffs; plaintiffs state that other co-workers witnessed [REDACTED] actions and sometimes engaged in similar behavior. Plaintiffs state that [REDACTED] reported Wonderchuck's behavior to

defendant and that defendant investigated [REDACTED]'s report but also attempted to find evidence that plaintiffs and other female employees engaged in sexually inappropriate behavior. Plaintiffs assert that defendant ultimately concluded that [REDACTED] created a sexually hostile environment but took few steps to remedy the situation; in addition, plaintiffs state that defendant's management told plaintiffs that they were at least partly responsible for the sexually charged atmosphere and embarrassed plaintiffs in front of other employees. Plaintiffs state that defendant never instituted any sexual harassment training and assert that their co-workers continued to create a hostile environment, stopped speaking to plaintiffs, and blocked plaintiffs' radio calls from being heard. Plaintiffs state that at least one of their co-workers wrote graffiti about [REDACTED] in a company table, keyed [REDACTED]'s car, and mooned [REDACTED] states that as a result of this conduct, [REDACTED] took short term disability leave in May 2006 and also switched jobs within the company; plaintiffs state that [REDACTED] remains employed by defendant to this day.

2. In the instant motion, defendant seeks an order compelling plaintiffs to produce a letter from plaintiff [REDACTED]'s counsel to her present employer [REDACTED]. Defendant states that during [REDACTED]'s deposition she testified that her attorney sent the letter and requested time off from work for [REDACTED] because she was taking the deposition. Defendant asserts that the letter may contain [REDACTED]'s impressions of defendant and is therefore relevant under Federal Rule of Civil Procedure 26. In addition, defendant states that production of the letter would not burden plaintiffs.

3. Plaintiffs oppose defendant's motion and request that said motion be denied.

Plaintiffs argue that a letter composed by their counsel to one of their current employers bears no relevance to an event that transpired multiple years ago in a different location. Plaintiffs note that defendant never made a formal document request for the letter and thus cannot compel production of it under Rule 37. Plaintiffs further assert that defendant has made no reasonable argument as to how the letter might be relevant and instead has only offered speculation and conjecture.

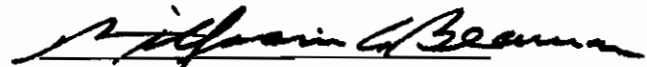
4. Federal Rule of Civil Procedure 26 provides the framework of relevancy in discovery, and it stipulates that parties “may obtain discovery regarding any nonprivileged matter that is relevant to any party’s claim or defense” or “appears reasonably calculated to lead to the discovery of admissible evidence.” FED. R. CIV. P. 26(b). Rule 37 provides that a party may seek an order compelling discovery when a party fails to make a proper Rule 26(a) self-executing discovery disclosure or fails to respond to an opposing party’s formal discovery request. FED. R. CIV. P. 37(a)(2). The Court consistently encourages counsel to conduct informal discovery whenever possible; however, when differences arise over informal discovery requests, the party seeking discovery must then proceed in accordance with Rule 37 as well as the local rules. Nevertheless, the Court will resolve this matter now to avoid the filing of additional pages of written arguments concerning a subject matter not requiring the numerous pages of material already submitted to the Court.

The Court finds that the letter defendant seeks falls well short of the relevancy threshold set by Rule 26(b). Defendant fails to demonstrate how a letter written by plaintiffs’ counsel to one of the plaintiffs current employers has any relevance to alleged discrimination that occurred multiple

years ago. Defendant suggests that the letter may offer insight into the plaintiff's perception of her former employer, but this argument is far too speculative and tenuous to merit any serious consideration. The Court finds that defendant's request is burdensome and harassing for the plaintiffs, and therefore defendant's motion is denied.

NOW, THEREFORE, IT IS ORDERED that defendant's Motion to Compel is DENIED.

Dated this 23rd day of July, 2008.



William C. Beaman
United States Magistrate Judge