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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, Plaintiff, v. WHITEHALL HOTEL, LTD. and WHITEHALL HOTEL RESTAURANT, INC., WHITEHALL HOTEL, LLC Defendants.	CIVIL ACTION NO. 03 C 6851 **SECOND AMENDED COMPLAINT** **JURY TRIAL DEMAND**

NATURE OF THE ACTION

This is an action under Title I of the Americans with Disabilities Act of 1990 and Title I of the Civil Rights Act of 1991 to correct unlawful employment practices. The Equal Employment Opportunity Commission ("EEOC") alleges that Whitehall Hotel, Ltd., Whitehall Hotel Restaurant, Inc., and Whitehall Hotel, LLC ("Defendants") failed to accommodate Eric Oden's disability and solicited from him and other applicants information about their disabilities, prior to making them an offer of employment.

JURISDICTION AND VENUE

1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451, 1331, 1337, 1343 and 1345. This action is authorized and instituted pursuant to Section 107(a) of the Americans with Disabilities Act of 1990 ("ADA"), 42 U.S.C. § 12117(a), which incorporates by reference Section 706 and Section 707 of Title VII of the Civil Rights Act of 1964 ("Title VII"), 42 U.S.C. § 2000e-5, and § 20000e-7.

2. The employment practices alleged to be unlawful were committed within the State of Illinois.

PARTIES

3. Plaintiff EEOC is the agency of the United States of America charged with the administration, interpretation and enforcement of Title I of the ADA and is expressly authorized to bring this action by Section 107(a) of the ADA, 42 U.S.C. § 12117(a), which incorporates by reference Section 706(f)(1) and (3), 42 U.S.C. § 2000e-5(f)(1) and (3).

4. At all relevant times, Whitehall Hotel, Ltd. was continuously doing business in the State of Illinois and continuously had at least 15 employees.

5. At all relevant times, Whitehall Hotel Restaurant, Inc. was continuously doing business in the State of Illinois and continuously had at least 15 employees.

6. At all relevant times, Whitehall Hotel, LLC was continuously doing business in the State of Illinois and continuously had at least 15 employees.

7. At all relevant times, Whitehall Hotel, Ltd. had continuously been an employer engaged in an industry affecting commerce under Section 101(5) of the ADA, 42 U.S.C.§ 12111(5), and Section 101(7) of the ADA, 42 U.S.C. § 12111(7), which incorporates by reference Sections 701(g) and (h) of Title VII, 42 U.S.C. §§ 2000e(g) and (h).

8. At all relevant times, Whitehall Hotel Restaurant, Inc. had continuously been an employer engaged in an industry affecting commerce under Section 101(5) of the ADA, 42 U.S.C.§ 12111(5), and Section 101(7) of the ADA, 42 U.S.C. § 12111(7), which incorporates by reference Sections 701(g) and (h) of Title VII, 42 U.S.C. §§ 2000e(g) and (h).

9. At all relevant times, Whitehall Hotel, LLC had continuously been an employer engaged in an industry affecting commerce under Section 101(5) of the ADA, 42 U.S.C.§ 12111(5), and Section 101(7) of the ADA, 42 U.S.C. § 12111(7), which incorporates by reference Sections 701(g) and (h) of Title VII, 42 U.S.C. §§ 2000e(g) and (h).

10. At all relevant times, Whitehall Hotel, Ltd. was a covered entity under Section 101(2) of the ADA, 42 U.S.C. § 12111(2).

11. At all relevant times, Whitehall Hotel Restaurant, Inc. was a covered entity under Section 101(2) of the ADA, 42 U.S.C. § 12111(2).

12. At all relevant times, Whitehall Hotel, LLC was a covered entity under Section 101(2) of the ADA, 42 U.S.C. § 12111(2).

STATEMENT OF CLAIMS

13. More than thirty days prior to the institution of this lawsuit, Eric Oden filed a charge with the EEOC alleging violations of Title I of the ADA by Defendants. All conditions precedent to the institution of this lawsuit have been fulfilled.

14. In 2001 Defendants failed to accommodate Eric Oden, in violation of Section 102(b)(5) of Title I of the ADA, 42 U.S.C. § 12112(b)(5).

15. The effect of the practices complained of in paragraph 8 above has been to deprive Eric Oden of equal employment opportunities and otherwise adversely affect his status as an employee, because of his disabilities.

16. The unlawful employment practices complained of in paragraph 8 above were intentional.

17. The unlawful employment practices complained of in paragraph 8 above were done with malice or with reckless indifference to the federally protected rights of Eric Oden.

18. Since at least 1999 Defendants have engaged in a pattern or practice of soliciting from applicants information concerning their disabilities, prior to making them an offer of employment, in violation of Section 102(d)(2) of Title I of the ADA, 42 U.S.C. § 12112(d)(2).

19. The effect of the practices complained of in paragraph 12 above has been to deprive Eric Oden of equal employment opportunities and otherwise adversely affect his status as an employee, because of his disabilities, and to interfere with the employment

opportunities of and adversely affect other applicants.

20. The unlawful employment practices complained of in paragraph 12 above were intentional.

21. The unlawful employment practices complained of in paragraph 12 above were done with malice or with reckless indifference to the federally protected rights of Eric Oden and other applicants.

PRAYER FOR RELIEF

Wherefore, the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining Defendants, their officers, successors, assigns, and all persons in active concert or participation with them, from engaging in employment practices which discriminate on the basis of disability.

B. Order Defendants to institute and carry out policies, practices, and programs which provide equal employment opportunities for qualified individuals with disabilities, and which eradicate the effects of the unlawful employment practices of Defendants.

C. Order Defendants to make whole Eric Oden by providing compensation for pecuniary losses resulting from the unlawful employment practices described in paragraph 8 above, in amounts to be determined at trial.

D. Order Defendants to make whole Eric Oden by providing compensation for nonpecuniary losses resulting from the unlawful practices complained of in paragraph 8 above, including emotional pain, suffering, inconvenience, loss of enjoyment of life, and humiliation, in amounts to be determined at trial.

E. Order Defendants to pay Eric Oden punitive damages for their malicious and reckless conduct, as described in paragraph 8 above, in an amount to be determined at trial.

G. Order Defendants, because of the unlawful practices complained of in paragraph 8 above, to make whole Eric Oden by providing him appropriate back pay with pre-judgment interest, in amounts to be determined at trial, and other affirmative relief necessary to eradicate the effects of the unlawful employment practices, including but not limited to rightful place reinstatement of Eric Oden;

II. Order Defendants to make whole Eric Oden and adversely affected applicants by providing them compensation for pecuniary losses resulting from the unlawful employment practices described in paragraph 12 above, in amounts to be determined at trial.

I. Order Defendants to make whole Eric Oden and adversely affected applicants by providing compensation for nonpecuniary losses resulting from the unlawful practices complained of in paragraph 12 above, including emotional pain, suffering, inconvenience, loss of enjoyment of life, and humiliation, in amounts to be determined at trial.

J. Order Defendants to pay Eric Oden and adversely affected applicants punitive damages for its malicious and reckless conduct, as described in paragraph 12 above, in an amount to be determined at trial.

K. Grant such further relief as the Court deems necessary and proper in the public interest.

L. Award the Commission its costs of this action.

JURY TRIAL DEMAND

The Commission requests a jury trial on all questions of fact raised by its complaint.

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Only the Westlaw citation is currently available.

United States District Court,
N.D. Illinois, Eastern Division.

Tammy WRIGHT, Plaintiff,
v.
Timothy J. TOUHY, et al., Defendants.

No. 97 C 742.

Oct. 28, 2003.

Fred Speck, Law Offices of Fred Speck Ltd., Chicago, IL, Arthur P. Sanderman, Attorney, Palatine, IL, for plaintiff.

Ubi O. O'Neal, Ubi O. O'Neal & Assoc., Mitchell Bruce Katten, Michael C. Moody, Kelly A. McCloskey, Limo T. Cherian, O'Rourke, McCloskey & Moody, Arthur E. Engelland, pro se, Chicago, IL, Nicholas J. Lagattuta, Richard A. March, Lagattuta & DeGrazia P.C., Schaumburg, IL, Louis R. Orlando, Chicago, IL, for defendants.

MEMORANDUM OPINION AND ORDER

BROWN, Magistrate J.

*1 This case comes to be heard on the Touhy Defendants' Motion to Strike Plaintiff's Supplemental Answers ("the Touhy Defendants' Motion"). [Dkt 199.] For the reasons set forth below, it is hereby ordered as follows:

(a) the Touhy Defendants' Motion is granted in part and denied in part, subject to certain conditions as set forth below; and

(b) Plaintiff's counsel, Fred Speck, must personally pay the Touhy Defendants' fees and costs in bringing the motion.

Factual Background

The facts underlying this case and the history of discovery are set out in this court's previous orders dated October 15, 2002 and September 8, 2003. [Dkt 145, 207.] Fact discovery closed on July 15, 2003. However, fact discovery disputes continue, as reflected in the present motion.

This matter is based on a long and complex factual situation involving civil and criminal proceedings in various courts in Chicago and Canada. All of the proceedings, including this lawsuit, stem from a collision in 1987 between a commercial truck and a car in which Tammy Wright ("Tammy") was riding as a passenger. Tammy was seriously injured and rendered a quadriplegic. Following the collision, Tammy's husband, Anthony De Silva retained the Chicago law firm of Touhy & Associates or attorney Timothy Touhy or attorney Arthur England, or some combination thereof, to open a probate estate for Tammy and pursue a personal injury lawsuit. The estate was opened in the Probate Division of the Circuit Court of Cook County and Anthony was appointed guardian of Tammy's person and estate. However, Tammy's parents, Ernest and Christine Wright, [FN1] have been Tammy's care-takers since the collision.

FN1. Christine Wright is now deceased.

The plaintiff in this action is the Manitoba, Canada estate of Tammy Wright through her Committee consisting of Ernest Wright, Tammy's father, and Thomas Frain. (First Am. Compl. ¶¶ 1-2.) [Dkt 169.] The operative pleading is the First Amended Complaint, which was filed in April 2003 and alleges four counts. [Dkt 169.] Count I alleges a breach of fiduciary duty, claiming, *inter alia,* that certain defendants, including attorney Timothy Touhy, refused to forward insurance payments from the Manitoba Public Insurance Company to Tammy's parents; that certain defendants kidnapped Tammy and attempted to transport her forcibly over the Canadian-U.S. border to Chicago; and that, although required by court order, certain defendant attorneys, including Timothy Touhy, refused to release Tammy's case file to her new attorneys. (First Am. Compl. ¶ 16.) Counts II, III and IV

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allege the same facts under theories of aiding and abetting breach of fiduciary duty, false imprisonment, and intentional infliction of emotional distress.

The Touhy Defendants' Motion is based on plaintiff's alleged failure to comply with certain discovery requests in a timely fashion. Specifically, the Touhy Defendants claim that the plaintiff failed to disclose the identity of eleven individuals who have knowledge of the allegations contained in the First Amended Complaint in compliance with an order entered in 1998 by then-Magistrate Judge Pallmeyer and Federal Rule of Civil Procedure 26(e) and, as a result, should be barred from calling these individuals as witnesses at trial.

*2 Sometime prior to August 1998, the Touhy Defendants served interrogatories on the plaintiff, asking the plaintiff, *inter alia*, to identify all individuals who have knowledge concerning the allegations contained in the Amended Complaint and to provide a description of the nature of each individual's information. (Defs.' Mot., Ex. A, Interrog. No. 7.) According to the Touhy Defendants, after the plaintiff failed to respond to these interrogatories, the Touhy Defendants filed a motion to compel. (Defs.' Mot. ¶ 2.) It appears that the plaintiff then responded to the interrogatories but that its answers were insufficient because, on August 28, 1998, then-Magistrate Judge Pallmeyer granted the Touhy Defendants' motion to compel and ordered the plaintiff, *inter alia*, to supplement its answer to Interrogatory No. 7 and identify *all individuals who have knowledge concerning the incident giving rise to this lawsuit.* [Dkt 61 (emphasis added).]

In September 1998, the plaintiff served Amended Answers to Interrogatories on the defendants. In its Amended Answers, the plaintiff argued that Interrogatory No. 7 was "impossible to answer ... overly broad and burdensome" but nonetheless gave the following list of individuals with "relevant, first-hand information" concerning the allegations contained in the Amended Complaint:

> all of the parties to this cause of action (including Tammy and her guardians) (knowledge of all allegations); all health care providers in Chicago, Phoenix and Winnipeg who gave any assistance to Tammy, names and addresses unknown (her condition); members of the Winnipeg Police Department, names and addresses not currently remembered except for an unidentified operator, Ron Oliver, Bob Marshall and Doug McDirmiad (sp?), addresses unknown (Tammy's abduction); members of Canadian law enforcement at the Emerson, Manitoba, CanadianU.S. border, names and addresses not known (attempts to take Tammy across the border); Dr. Michael Stambrook, Winnipeg, Manitoba (effect of kidnapping on Tammy); Jack Montgomery, Crown Attorney for Manitoba, and his staff, names and addresses unknown (kidnapping); Joel Bertocchi, Asst. U.S. Attorney for the Northern District of Illinois, and his staff, and F.B.I. Agent Lee W. Harbaugh, and his staff, all at 219 S. Dearborn St., Chicago Illinois (kidnapping).

(Defs.' Mot., Ex. D at 4-5.)

On September 3, 1998, Judge Pallmeyer granted a fourth motion to compel brought by the Touhy Defendants and ordered the plaintiff to respond to certain interrogatories and requests to produce by September 9, 1998. [Dkt 70.] Although it is unclear from the docket whether that order specifically required the plaintiff to further amend its answer to Interrogatory No. 7, the plaintiff served its first Supplement to Amended Answers to Interrogatories on September 15, 1998, stating in relevant part: "RESPONSE NO. 7: Plaintiffs *have* identified all individuals." (Defs.' Mot., Ex. E at 2) (emphasis in original). [FN2]

> FN2. There is no evidence that the plaintiff further supplemented its answer to Interrogatory No. 7 after September 15, 1998 until July 2003, when it filed the supplemental answers that are the subject of the Touhy Defendants' Motion. Although the plaintiff claims that it supplemented its answers in August 2002 (Pl.'s Resp. ¶ 4), it does not state (or even suggest) that it further supplemented its answer to Interrogatory No. 7 after September 1998. Thus, the answers to Interrogatory No. 7 set forth above are the only answers considered by this court.

*3 On March 31, 2003, this court extended the fact discovery cut-off date from July 8, 2003 to July 15, 2003, and set a status hearing on July 15, 2003.

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[Dkt 163.] This court also ordered that any motions seeking leave to extend the fact discovery cut-off date should be noticed for hearing on July 15th, and must identify specifically what additional discovery needs to be taken. [*Id.*] On July 11, 2003, the plaintiff filed a motion to extend *generally* the deadline for bringing any motions to extend discovery. [Dkt 197.]

At the July 15, 2003 hearing, this court extended fact discovery for the *limited purpose* of allowing the parties to complete the depositions of Timothy Touhy, Fred Speck and Marie Sicotte and held that "[a]ny further discovery sought by any party must be first the subject of meet and confer and, if no agreement can be reached, then a motion may be sought." [Dkt 198.]

At the July 15th hearing, plaintiff's counsel, Fred Speck, stated that he had recently sent the defendants supplemental answers to interrogatories, which included additional names of individuals with knowledge concerning the allegations in the First Amended Complaint. Counsel for the Touhy Defendants, Mitchell Katten, objected, arguing that fact discovery was closed and it was "simply too late" to identify individuals with knowledge regarding the facts of this case.

In the July 2003 supplemental answers, the plaintiff identified--for the first time--eleven individuals who have knowledge concerning the facts of this case: (1) C.N. Mac Kinnon--Sergent on Duty for the Royal Canadian Mounted Police at the Emerson Detachment, P.O. Box 421, Emerson, Manitoba, ROA 0L0, Canada; (2) Vera Layhon [FN3]--U.S. Customs Supervisor, at the U.S. Customs Port of Entry, Pembina, North Dakota; (3) Michael H. Mach--U.S. Customs Service Agent; (4) James E. Strand--U.S. Customs Service Agent; (5) Anthony L. Onstad; (6) Terry Kreitz--Canadian Customs Agents, Emerson, Canada; (7) Brian Kress--Attorney, Winnipeg, Manitoba; (8) William Murday--Attorney, Chicago, Illinois; (9) John Garafolo--Attorney, Chicago; (10) Bob Clifford--Attorney, Chicago; (11) Kevin Durkin--Attorney, Chicago. (Defs.' Mot., Ex. F at 1-2.)

FN3. According to the parties, Vera Layhon is now deceased.

The plaintiff claims that it added these individuals because defendant Timothy J. Touhy stated new allegations at his July 8th deposition or "recent discoveries" were made at the depositions of other defendants. (Pl.'s Resp. ¶ 9.) The Touhy Defendants argue that "[t]he plaintiff's attempt to link its late and deficient disclosures to the timing of the defendants' depositions is unavailing" because all of these individuals were either "plaintiff's own counsel" or known to plaintiff "prior to the time it filed the instant suit." (Defs.' Reply at 3, 7.)

In their briefs, the parties go to great lengths arguing when exactly the plaintiff served its supplemental answers on the Touhy Defendants. The Touhy Defendants claim that the plaintiff did not serve its supplemental answers until July 21, 2003--six days after the close of fact discovery. (Defs.' Mot. ¶ 8.) The plaintiff contends that it served its supplemental answers on July 11, 2003--three days before the close of fact discovery. (Pl.'s Resp. ¶ 8.) However, whether or not the plaintiff served these supplemental answers before or after July 15, 2003 is immaterial compared to the more significant issue and the focus of this court's analysis--whether the plaintiff and its counsel violated Judge Pallmeyer's August 28, 1998 order as well as Federal Rules of Civil Procedure 26(g) and (e).

Analysis

1. *Legal Standard*

*4 The importance of full and fair discovery to the resolution of litigation in the federal courts cannot be underestimated. "In our system of civil litigation, the discovery process is the principal means by which lawyers and parties assemble the facts, and decide what information to present at trial." *Danis v. USN Communs., Inc.*, 2000 WL 1694325 at *1 (N.D.Ill. Oct.23, 2000) (Schenkier, M.J.). The Federal Rules of Civil Procedure are designed to promote liberal discovery in an effort to narrow the issues for trial and to prevent unfair surprise. *Settles v. Illinois Dept. of Human Servs.*, 2001 WL 987590 at *1 (N.D.Ill. Aug.28, 2001) (Pallmeyer, J.). *See also Scranton Gillette Communs., Inc. v. Dannhausen*, 1998 WL 566668 at *1 (N.D.Ill. Aug.26, 1998) (Urbom, J.).

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In light of these goals, each party has an obligation under Rule 26(g) to make a reasonable inquiry into the facts of the case before making its discovery disclosures or responses. Fed.R.Civ.P. 26(g). The duty to make a "reasonable inquiry" is satisfied if the investigation undertaken by the attorney and the conclusions drawn therefrom are reasonable under the circumstances. Fed.R.Civ.P. 26(g), Advisory Committee Notes, 1983 Amendment. Ultimately, what is reasonable is a matter for the court to decide on the totality of the circumstances. *Id.*

If a court finds that a party violated Rule 26(g) without significant justification, the imposition of sanctions is mandatory. Specifically, Rule 26(g)(3) provides:

> If without substantial justification a certification is made in violation of the rule, the court, upon motion or its own initiative, shall impose upon the person who made the certification, the party on whose behalf the disclosure, request, response, or objection is made, or both, an appropriate sanction, which may include an order to pay the amount of the reasonable expenses incurred because of the violation, including a reasonable attorney's fee.

Fed.R.Civ.P. 26(g)(3).

Furthermore, Rule 26(e)(2) requires a litigant "seasonably to amend a prior response to an interrogatory, request for production, or request for admission if the party learns that the response is in some material respect incomplete or incorrect." Fed.R.Civ.P. 26(e)(2). No motion to compel is necessary. *Scranton Gillette Communs., Inc.*, 1998 WL 566668 at *1. The duty to supplement discovery requests lingers on without subsequent solicitation. *Id.* (citing *Pasant v. Jackson Natl. Life Ins. Co.*, 137 F.R.D. 255, 257 (N.D.Ill.1991)).

A party that violates Rule 26(e)(2) without substantial justification risks significant **sanctions**. **Rule** 37(c)(1) provides: "A party that without substantial justification fails ... to amend a prior response to discovery as required by Rule 26(e)(2), is not, unless such failure is harmless, permitted to use as evidence at a trial, at a hearing, or on a motion any witness or information not so disclosed." Fed.R.Civ.P. 37(c)(1). **Rule** 37(c)(1) also permits a court to impose "other appropriate **sanctions**," including, but not limited to, attorney's fees and costs. *Id.* In determining whether to exclude evidence or award **sanctions**, the court must not only consider the importance of the evidence to the case but must weigh that importance against the possible prejudice to the contesting party resulting from its admission into evidence. *Scranton Gillette Communs., Inc.*, 1998 WL 566668 at *2. Indeed, the goal behind Rule 26(e)(2) is to prevent any unfair, prejudicial surprise at trial. *Id.*

2. *Brian Kress, William Murday, Bob Clifford and Kevin Durkin*

*5 Four of the individuals identified in the plaintiff's supplemental answers--Brian Kress, William Murday, Bob Clifford, and Kevin Durkin--were the plaintiff's own attorneys in the underlying state court proceedings (which took place in the mid-1990s) or in the Canadian proceedings. The plaintiff certainly knew these attorneys in 1998; however, it did not list them in its initial answers or its first supplemental answers.

At the October 2, 2003 hearing, plaintiff's counsel stated that he added these attorneys to plaintiff's answer to Interrogatory No. 7 after Mr. Touhy made certain statements at his deposition (taken in 2003) contradicting his previous testimony. Specifically, the plaintiff claims that Mr. Touhy testified at his deposition that he had "detailed negotiations" and made "joint efforts" with Mr. Kress and Mr. Murday to forward the disability payments he received from Manitoba Public Insurance Company to the Wrights. (Pl.'s Resp. ¶ 9.) However, according to the plaintiff, Mr. Touhy previously testified that "he had *not* attempted to forward said monies [to the Wrights]." (*Id.*) (emphasis in original). Based on this "new allegation," the plaintiff now wants to call Mr. Kress and Mr. Murday to rebut Mr. Touhy's deposition testimony.

In addition, the plaintiff claims that Mr. Touhy testified at his deposition that he had his file for Tammy's case copied at the print shop in his building and "advised [Mr.] Clifford's office" (where Mr. Durkin also worked) that the file was available for pick-up upon payment for the copying. (Pl.'s Resp. ¶ 9.) However, according to the plaintiff, Mr. Touhy gave sworn testimony in the Illinois Probate Court in 1996 that he did not turn

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over his file to Mr. Clifford's law offices. (*Id.*)

The fact that Mr. Touhy allegedly "changed his story" at his deposition does not excuse the plaintiff's patent failure to name Mr. Kress, Mr. Murday, Mr. Clifford and Mr. Durkin in its initial or amended answers to Interrogatory No. 7, which sought the identities of *all* individuals with knowledge of the allegations in the Amended Complaint. The plaintiff cannot deny that it knew the identity of these individuals--its own attorneys--and the roles they played in the underlying litigation back in 1998, when Judge Pallmeyer specifically ordered the plaintiff to supplement its answer to Interrogatory No. 7 and provide names of all individuals with knowledge of the events giving rise to this lawsuit. However, instead of providing the Touhy Defendants with the names of these attorneys in its initial answers, the plaintiff waited to supplement its answer until *it determined that these individuals had knowledge that was useful to its own case.* This type of selective disclosure is directly at odds with the spirit of liberal discovery and clearly violates Rule 26(e). Because the plaintiff has not provided any valid reason why it did not previously supplement its answer to Interrogatory No. 7 to include the names and contact information for these attorneys, it has failed to comply with Rule 26(e) and those individuals should be stricken from plaintiff's supplemental answers.

*6 On the other hand, the Touhy Defendants do not--and cannot--claim that they were unaware of the identity of plaintiff's former attorneys. Based on that fact and the nature of the purported testimony that plaintiff's counsel plans to elicit from each of these attorneys, it would be unfairly prejudicial to bar these individuals from testifying at trial as rebuttal witnesses. Therefore, this court finds that Mr. Kress, Mr. Murday, Mr. Clifford and Mr. Durkin may be called as rebuttal witnesses at trial but the subject matter of their testimony shall be limited to the matters plaintiff's counsel identified at the hearing. Specifically, Mr. Kress and Mr. Murday may be called solely to rebut testimony by Mr. Touhy that he negotiated or made efforts with them to forward certain disability payments to the Wrights, and Mr. Clifford and Mr. Durkin may be called solely to rebut testimony by Mr. Touhy that he informed their office that his files had been copied and were waiting to be retrieved at the copy center in his building.

2. *C.N. Mac Kinnon, Vera Layhon, Michael Mach, James Strand, Anthony Onstad and Terry Kreitz*

The plaintiff claims that C.N. Mac Kinnon, Vera Layhon, Michael H. Mach, James E. Strand, Anthony L. Onstad and Terry Kreitz became known as a result of "the commencement of the deposition of Defendant Judith Schoen, and resultant investigation and document procurement" and "additional deposition[s] of the other Defendants." (Pl.'s Resp. ¶ 9(b)). However, the plaintiff does not attach or cite to any portion of any deposition transcript to support its position. In fact, a review of Ms. Schoen's deposition transcript shows that she did not identify any of these individuals during her deposition.

The Touhy Defendants, on the other hand, point to several documents indicating that the plaintiff or plaintiff's counsel knew or should have known the identity of at least some of these individuals prior to July 2003. For example, a review of Anthony Lobue's deposition transcript shows that plaintiff's counsel questioned him regarding Terry Kreitz in May 2003. Additionally, in one of their pleadings in the underlying probate litigation, the Wrights specifically identified U.S. Custom Officials Michael Mach and Anthony Onsted as being present at the Emerson border on February 3, 1992. Finally, in March 1995, Magistrate Judge Bobrick specifically identified Terry Kreitz, C.N. Mac Kinnon, Vera Layhon, Michael H. Mach and Anthony Onstad in a published opinion captioned *In the Matter of the Extradition of Kulekowskis*, 881 F.Supp. 1126, 1133 (N.D.Ill.1995), *rev'd, DeSilva v. DiLeonardi*, 125 F.3d 1110 (7th Cir.1997), which was an opinion from the extradition hearing. Based on those documents, it appears that the plaintiff knew or at the very least should have known the identities of these individuals much earlier than July 2003. Yet, again, the plaintiff chose to wait to identify these individuals until it determined that their knowledge was useful to its own case.

*7 Even if the plaintiff could show that it only recently determined the identities of these customs officials, the question still remains as to why plaintiff or its counsel waited so many years after

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the filing of this lawsuit to investigate who was present at the U.S.-Canadian border on February 3, 1992. At the hearing, plaintiff's counsel stated that, prior to Ms. Shoen's deposition, he thought the confrontation at the border lasted only for a brief period. Apparently, Ms. Shoen testified that the confrontation at the border lasted approximately seven hours, which caused plaintiff's counsel to investigate for the first time who was present at the scene. However, one of plaintiff's central claims in this lawsuit is that, on February 3, 1992, certain defendants attempted to transport Tammy across the Canada-U.S. border. (First Am. Compl. ¶ 16(e)). Based on that allegation, the plaintiff certainly had a duty to investigate who was present and what transpired at the border on February 3, 1992. Yet, over the course of five years, plaintiff's counsel admittedly failed to make any inquiries as to who was present at the border and only named the individuals after their knowledge seemed important to plaintiff's case.

Again, however, the Touhy Defendants cannot claim that they were completely blind-sided by plaintiff's addition of these individuals to its supplemental answers. All of the defendants knew that a confrontation took place at the U.S.-Canadian border on February 3, 1992 and, in fact, five of the defendants were present at the scene and involved in the confrontation. Additionally, several of the documents submitted by the Touhy Defendants in support of their motion (*e.g.*, the pleading from the probate court and the March 1995 published opinion by Magistrate Judge Bobrick) illustrate that the defendants, including the Touhy Defendants, knew or could have known the identity of these individuals several years ago.

However, the defendants may have been relying on the fact that the plaintiff did not list them and made no effort before the close of discovery to obtain the depositions of these individuals, who are outside the subpoena power of the Northern District of Illinois, as an indication that the plaintiff had no intention to present their testimony at trial. *See* Fed.R.Civ.P. 32(a)(3)(B). The plaintiff now suggests that these individuals may testify in person at the trial. [FN4]

> FN4. At the October 2, 2003 hearing, plaintiff's counsel indicated that the Canadian government is willing to pay the travel expenses for its employees to testify at the trial of this case.

The testimony of these customs officials may be important as to what occurred at the border on February 3, 1992. However, because these individuals are outside the subpoena power of this court and fact discovery is closed, the only way their testimony can be presented is if they appear in Chicago to testify. Therefore, in the interest of fairness, this court finds that the appropriate remedy is to accelerate their testimony in Chicago, and to allow C.N. Mac Kinnon, Michael H. Mach, James E. Strand, Anthony L. Onstad and Terry Kreitz to be named as persons with knowledge and called as witnesses at trial *if and only if* the plaintiff or a third-party pays for them to travel to Chicago to sit for a deposition before January 15, 2004. If the plaintiff does not make these individuals available for deposition in Chicago before January 15, 2004, they are stricken from plaintiff's supplemental answers and barred from testifying at trial. This remedy preserves the testimony of these witnesses, so that if they are unable to appear later their testimony can be presented, yet allows the defendants sufficient time in advance of the trial to do any follow up suggested by the testimony of these witnesses. Thus, if C.N. Mac Kinnon, Michael H. Mach, James E. Strand, Anthony L. Onstad or Terry Kreitz are deposed pursuant to this order and any new material information (including, but not limited to, the identity of any individuals not previously named who were present at the border) is divulged during the deposition, the defendants may file a motion to extend fact discovery for the limited purpose of investigating this new material information. This does not foreclose any party from presenting a witness who has been deposed as a live witness at the trial.

*8 Because Vera Layhon is deceased, the issue as to whether or not to bar her from testifying at trial is moot.

4. *John Garafolo*

The Touhy Defendants claim that John Garafolo represented the defendant Trucking Company in the underlying state court personal injury case and was known to plaintiff and its counsel since the early 1990s. (Defs.' Reply at 3, 5.) In its response, the

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plaintiff does not dispute its prior knowledge of Mr. Garafolo or his role in the underlying case. Rather, the plaintiff simply states that its counsel recently learned that Mr. Garafolo told Winnipeg officials that he did not seek a medical exam of Tammy Wright until six months after her alleged abduction. (Pl.'s Resp. ¶ 9(c).) That is not a basis upon which the plaintiff can supplement its answer just as fact discovery is closing. At the hearing on the Touhy Defendant's Motion, plaintiff's counsel admitted that he spoke with Mr. Garafolo in 1993, but that he did not ask him when he sought a medical exam of Tammy. That constitutes a patent failure to investigate by plaintiff's counsel, and there is no justification for plaintiff's waiting five years to add Mr. Garafolo to its answer to Interrogatory No. 7. Therefore, Mr. Garafolo is stricken from plaintiff's supplemental answers and the plaintiff is barred from calling Mr. Garafolo as a witness at trial.

5. *Imposition of Attorneys' Fees and Costs*

Rule 37 provides for the imposition of attorneys' fees and costs incurred by the other party when a party fails to comply with an order or amend a prior response to discovery as required by Rule 26(e)(2), unless the court finds the failure was substantially justified. Fed.R.Civ.P. 37. Furthermore, as set forth above, Rules 26(g) and 26(e) permit a court to impose attorneys' fees and costs when a party has violated those rules without substantial justification.

In this case, Mr. Speck has not offered any substantial justification or any persuasive explanation for the untimely disclosure of these eleven individuals. In fact, at the argument on the Touhy Defendant's Motion, Mr. Speck explained that it is not his "style" to undertake an investigation until he hears what the other side has to say, in this case, at the deposition of the defendants. *See also* Pl.'s Resp. Touhy Defs.' Mot. Cite Add'l Authority ¶ 5. [Dkt 221.] That argument completely ignores the affirmative obligation of a party to make a reasonable inquiry in order to respond to discovery propounded by another party. The plaintiff and its counsel had an obligation to investigate and provide information that the defendants had a right to have, *whether or not* the plaintiff wanted to have that information. That obligation was reinforced by two separate orders by Judge Pallmeyer. There is simply no excuse for Mr. Speck to have ignored that obligation. Counsel must adapt their "style" to follow the Federal Rules of Civil Procedure and the court's orders.

Therefore, pursuant to Rules 37, 26(g) and 26(e), Fred Speck must personally pay the Touhy Defendants the attorneys' fees and costs that the Touhy Defendant's incurred in preparing, filing and arguing the present motion. Counsel for the Touhy Defendants shall serve Mr. Speck with a statement of such fees and costs no later than November 10, 2003, specifying the date, time and nature of the services rendered and the applicable billing rate and identifying all costs. This includes time for legal and factual research but does not include any time for interoffice consultation with other lawyers. By November 24, 2003, Mr. Speck must serve a statement of any specific item disputed and pay in full any amount not disputed. The parties shall comply with Local Rule 54.3(e) and (f) with respect to any disputed item.

***9** IT IS SO ORDERED.

2003 WL 22439864 (N.D.Ill.)

END OF DOCUMENT

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CERTIFICATE OF SERVICE

Jeanne B. Szromba, an attorney, hereby certifies that she caused a copy of the foregoing Notice of Motion and Plaintiff EEOC's Motion for Leave to File Second Amended Complaint, Instanter and For Rule 37(c) Sanctions to be sent by facsimile and by U.S. Mail, postage pre-paid, to counsel of record at the following address:

Susan Bogart.
Law Offices of Susan Bogart
30 North LaSalle Street
Suite 2900
Chicago, Illinois 60602
(312) 263-5013 (fax)

Dated: February 3, 2005

Jeanne B. Szromba
Jeanne B. Szromba

EXHIBIT A

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, Plaintiff	)	CIVIL ACTION NO. 03 C 6851
v.	)	
WHITEHALL HOTEL, LTD. Defendant	)	

ANSWER TO COMPLAINT

Defendant, Whitehall Hotel Ltd. does hereby answer the Equal Employment Opportunity Commission ("EEOC") as follows:

NATURE OF THE ACTION

This is an action under Title I of the Americans with Disabilities Act of 1990 and Title I of the Civil Rights Act of 1991 to correct unlawful employment practices. The Equal Employment Opportunity Commission ("EEOC") alleges that Whitehall Hotel, Ltd. failed to accommodate Eric Oden's disability and solicited from him and other applicants information about their disabilities, prior to making them an offer of employment.

Answer: Defendant admits that the present complaint purports to be filed under the Americans with Disabilities Acts. Defendant denies any and all factual allegations set forth in this introductory paragraph. Defendant can neither admit or deny any legal conclusions set forth in this introductory paragraph.

JURISDICTION AND VENUE

1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C.§§451, 1331, 1337, 1343 and 1345. This action is authorized and instituted pursuant to Section 107(a) of the Americans with

Disabilities Act of 1990 ("ADA"), 42 U.S.C.§12117(a), which incorporates by reference Section 706 and Section 707 of Title VII of the Civil Rights Act of 1963 ("Title VII"), 42 U.S.C.§2000e-5, and §2000e-7.

RESPONSE: Defendant admits that the Plaintiff has invoked this court's jurisdiction under the above referenced statutes.

2. The employment practices alleged to be unlawful were committed within the State of Illinois.

RESPONSE: Defendant denies that it committed unlawful employment practices and is without sufficient information to form a belief as to the remainder of the allegation in paragraph 2. Defendant cannot admit or deny that portion of paragraph 2 that states conclusions of law.

3. Plaintiff EEOC is the agency of the United States of America charged with the administration, interpretation and enforcement of Title I of the ADA and is expressly authorized to bring this action by Section 107(a) of the ADA, 42 U.S.C.§12117(a), which incorporates by reference Section 706(f)(1) and (3), 42 U.S.C.§2000e-5(f)(1) and (3).

RESPONSE: Defendant admits that the EEOC is an agency of the United States. Defendant can neither admit nor deny the legal conclusion that the EEOC is expressly authorized to bring this action.

4. At all relevant times, Whitehall Hotel, Ltd. ("Defendant") was continuously doing business in the State of Illinois and continuously had at least 15 employees.

RESPONSE: Denied.

5. At all relevant times, Defendant had continuously been an employer engaged in an industry affecting commerce under Section 101(5) of the ADA, 42 U.S.C.§12111(5), and Section 101(7) of the

ADA, 42 U.S.C.§12111(7), which incorporates by references Section 701(g) and (h) of Title VII, 42 U.S.C.§§2000e(g) and (h).

RESPONSE: Denied.

6. At all relevant times, Defendant was a covered entity under Section 101(2) of the ADA, 42 U.S.C.§12111(2).

RESPONSE: Denied.

STATEMENT OF CLAIMS

7. More than thirty days prior to the institution of this lawsuit, Eric Oden filed a charge with the EEOC alleging violations of Title I of the ADA by Defendant. All conditions precedent to the institution of this lawsuit have been fulfilled.

RESPONSE: Defendant is without sufficient information and belief to admit or deny paragraph 7 and can neither admit nor deny conclusions of law contained therein.

8. In 2001 Defendant failed to accommodate Eric Oden, in violation of Section 102(b)(5) of Title I of the ADA, 42 U.S.C.§12112(b)(5).

RESPONSE: Denied.

9. The effect of the practices complained of in paragraph 8 above has been to deprive Eric Oden of equal employment opportunities and otherwise adversely affect his status as an employee, because of his disabilities.

RESPONSE: Denied.

10. The unlawful employment practices complained of in paragraph 8 above were intentional.

RESPONSE: Denied.

11. The unlawful employment practices complained of in paragraph 8 above were done with malice or with reckless indifference to the federally protected rights of Eric Oden.

RESPONSE: Denied.

12. Since at least 1999 Defendant has engaged in a pattern or practice of soliciting from applicants information concerning their disabilities, prior to making them an offer of employment, in violation of Section 102(d)(2) of Title I of the ADA, 42 U.S.C.§12112(d)(2).

RESPONSE: Denied.

13. The effect of the practices complained of in paragraph 12 above has been to deprive Eric Oden of equal employment opportunities and otherwise adversely affect his status as an employee, because of his disabilities, and to interfere with the employment opportunities of and adversely affect other applicants.

RESPONSE: Denied.

14. The unlawful employment practices complained of in paragraph 12 above were intentional.

RESPONSE: Denied.

15. The unlawful employment practices complained of in paragraph 12 above were done with malice or with reckless indifference to the federally protected rights of Eric Oden and other applicants.

RESPONSE: Denied.

FIRST AFFIRMATIVE DEFENSE

Plaintiff's claims are barred as it has failed to state a claim upon which relief may be granted under Rule 12 of the Federal Rules of Civil Procedure.

SECOND AFFIRMATIVE DEFENSE

Plaintiff's claims are barred because it has failed to exhaust administrative remedies.

THIRD AFFIRMATIVE DEFENSE

Plaintiff's claims are barred because Defendant made good faith efforts to comply with Americans with Disabilities Act.

FOURTH AFFIRMATIVE DEFENSE

Plaintiff'S right to equitable relief is barred because to the extent Plaintiff has suffered any damages there is an adequate remedy at law.

FIFTH AFFIRMATIVE DEFENSE

Plaintiff's claim and relief are barred to the extent Plaintiff has failed to mitigate damages.

SIXTH AFFIRMATIVE DEFENSE

Plaintiff's claims are barred because defendant's employment decisions are based upon reasonable factors and are not discriminatory.

SEVENTH AFFIRMATIVE DEFENSE

Plaintiff's claims are barred by the doctrine of laches.

EIGHTH AFFIRMATIVE DEFENSE

Defendant reserves the right to raise additional affirmative defenses as established through discovery in this case.

RESPECTFULLY SUBMITTED,

WHITEHALL HOTEL LTD.

BY: Susan Bogart
One Of Its Attorneys

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EXHIBIT B

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, Plaintiff, v. WHITEHALL HOTEL LTD., and WHITEHALL HOTEL RESTAURANT, INC., Defendants.	Case No. 03 C 6851 Judge John W. Darrah U.S. Magistrate Judge Ashman

DEFENDANTS RESPONSE TO EEOC'S FIRST REQUEST FOR ADMISSION

NOW COMES the Whitehall Defendants and in response to the EEOC's First Request for Admission states as follows:

1. In at least 20 calendar weeks in the year 2000, Whitehall Hotel Restaurant, Inc. had more than 14 individuals on its payroll.

ANSWER: Deny

2. In at least 20 calendar weeks in the year 2001, Whitehall Hotel Restaurant, Inc. had more than 14 individuals on its payroll.

ANSWER: Deny

3. In at least 20 calendar weeks in the year 2000, Whitehall Hotel Restaurant, Inc. had more than 100 individuals on its payroll.

ANSWER: Deny

4. In at least 20 calendar weeks in the year 2001, Whitehall Hotel Restaurant, Inc. had more than 100 individuals on its payroll.

ANSWER: Deny

5. In at least 20 calendar weeks in the year 2000, Whitehall Hotel Restaurant, Inc. had more than 200 individuals on its payroll.

ANSWER: **Deny**

6. In at least 20 calendar weeks in the year 2001, Whitehall Hotel Restaurant, Inc. had more than 200 individuals on its payroll.

ANSWER: **Deny**

7. In at least 20 calendar weeks in the year 2000, Whitehall Hotel Restaurant, Inc. had more than 500 individuals on its payroll.

ANSWER: **Deny**

8. In at least 20 calendar weeks in the year 2001, Whitehall Hotel Restaurant, Inc. had more than 500 individuals on its payroll.

ANSWER: **Deny**

9. In at least 20 calendar weeks in the year 2000, Whitehall Hotel, Ltd. had more than 14 individuals on its payroll.

ANSWER: **Deny**

10. In as least 20 calendar weeks in the year 2001, Whitehall Hotel, Ltd. had more than 14 individuals on its payroll.

ANSWER: **Deny**

11. In at least 20 calendar weeks in the year 2000, Whitehall Hotel, Ltd. had more than 100 individuals on its payroll.

ANSWER: **Deny**

12. In at least 20 calendar weeks in the year 2001, Whitehall Hotel, Ltd. had more than 100 individuals on its payroll.

ANSWER: **Deny**

13. In at least 20 calendar weeks in the year 2000, Whitehall Hotel, Ltd. had more than 200 individuals on its payroll.

ANSWER: **Deny**

14. In at least 20 calendar weeks in the year 2001, Whitehall Hotel, Ltd. had more than 200 individuals on its payroll.

ANSWER: Deny

15. In at least 20 calendar weeks in the Year 2000, Whitehall Hotel, Ltd. had more than 500 individuals on its payroll.

ANSWER: Deny

16. In at least 20 calendar weeks in the Year 2001, Whitehall Hotel, Ltd. had more than 500 individuals on its payroll.

ANSWER: Deny

17. In at least 20 calendar weeks in the year 2000, the entity or entities who owned the restaurant in the Whitehall Hotel where Eric Oden worked in 2001 had more than 14 individuals on its payroll.

ANSWER: Defendants object to Request to Admit No. 17 as it seeks information from unnamed and unidentified non parties. Requests for admission are not discovery devices but, rather, are used to establish the truth or genuineness of a matter in order to eliminate the need to prove the matter at trial or to limit the triable issues of fact. Defendants object because contrary to Rule 36(a) of the Fed. R.C.P., the request does not seek information within the scope of Rule 26(b)(1) of the Fed. R.C.P., because it seeks information concerning unidentified and unnamed non-parties.

Defendants are unable to admit or deny Request to Admit No. 17 because the form of the request is compound and calls for legal conclusion and because use of the phrase "who owned the restaurant" is vague, ambiguous and susceptible to multiple interpretations.

18. In at least 20 calendar weeks in the year 2001, the entity or entities who owned the restaurant in the Whitehall Hotel where Eric Oden worked in 2001 had more than 14 individuals on its payroll.

ANSWER: Defendants object to Request to Admit No. 18 as it seeks information from unnamed and unidentified non parties. Requests for admission are not discovery devices but, rather, are used to establish the truth or genuineness of a matter in order to eliminate the need to prove the matter at trial or to limit the triable issues of fact. Defendants object because contrary to Rule 36(a) of the Fed. R.C.P., the request does not seek information within the scope of Rule 26(b)(1) of the Fed. R.C.P., because it seeks information concerning unidentified and unnamed non-parties.

Defendants are unable to admit or deny Request to Admit No. 18 because the form of the request is compound and calls for a legal conclusion and because use of the phrase "who owned the restaurant" is vague, ambiguous and susceptible to multiple interpretations.

19. In at least 20 calendar weeks in the year 2000, the entity or entities who owned the restaurant in the Whitehall Hotel where Eric Oden worked in 2001 had more than 100 individuals on its payroll.

ANSWER: Defendants object to Request to Admit No. 19 as it seeks information from unnamed and unidentified non parties. Requests for admission are not discovery devices but, rather, are used to establish the truth or genuineness of a matter in order to eliminate the need to prove the matter at trial or to limit the triable issues of fact. Defendants object because contrary to Rule 36(a) of the Fed. R.C.P., the request does not seek information within the scope of Rule 26(b)(1) of the Fed. R.C.P., because it seeks information concerning unidentified and unnamed non-parties.

Defendants are unable to admit or deny Request to Admit No. 19 because the form of the request is compound and calls for a legal conclusion and because use of the phrase "who owned the restaurant" is vague, ambiguous and susceptible to multiple interpretations.

20. In at least 20 calendar weeks in the year 2001, the entity or entities who owned the restaurant in the Whitehall Hotel where Eric Oden worked in 2001 had more than 100 individuals on its payroll.

ANSWER: Defendants object to Request to Admit No. 20 as it seeks information from unnamed and unidentified non parties. Requests for admission are not discovery devices but, rather, are used to establish the truth or genuineness of a matter in order to eliminate the need to prove the matter at trial or to limit the triable issues of fact. Defendants object because contrary to Rule 36(a) of the Fed. R.C.P., the request does not seek information within the scope of Rule 26(b)(1) of the Fed. R.C.P., because it seeks information concerning unidentified and unnamed non-parties.

Defendants are unable to admit or deny Request to Admit No. 20 because the form of the request is compound and calls for a legal conclusion and because use of the phrase "who owned the restaurant" is vague, ambiguous and susceptible to multiple interpretations.

21. In at least 20 calendar weeks in the year 2000, the entity or entities who owned the restaurant in the Whitehall Hotel where Eric Oden worked in 2001 had more than 200 individuals on its payroll.

ANSWER: Defendants object to Request to Admit No. 21 as it seeks information from unnamed and unidentified non parties. Requests for admission are not discovery devices but, rather, are used to establish the truth or genuineness of a matter in order to eliminate the need to prove the matter at trial or to limit the triable issues of fact. Defendants object because contrary to Rule 36(a) of the Fed. R.C.P., the request does not seek information within the scope of Rule 26(b)(1) of the Fed. R.C.P., because it seeks information concerning unidentified and unnamed non-parties.

Defendants are unable to admit or deny Request to Admit No. 21 because the form of the request is compound and calls for a legal conclusion and because use of the phrase "who owned the restaurant" is vague, ambiguous and susceptible to multiple interpretations.

22. In at least 20 calendar weeks in the year 2001, the entity or entities who owned the restaurant in the Whitehall Hotel where Eric Oden worked in 2001 had more than 200 individuals on its payroll.

ANSWER: **Defendants object to Request to Admit No. 22 as it seeks information from unnamed and unidentified non parties. Requests for admission are not discovery devices but, rather, are used to establish the truth or genuineness of a matter in order to eliminate the need to prove the matter at trial or to limit the triable issues of fact. Defendants object because contrary to Rule 36(a) of the Fed. R.C.P., the request does not seek information within the scope of Rule 26(b)(1) of the Fed. R.C.P., because it seeks information concerning unidentified and unnamed non-parties.**

Defendants are unable to admit or deny Request to Admit No. 22 because the form of the request is compound and calls for a legal conclusion and because use of the phrase "who owned the restaurant" is vague, ambiguous and susceptible to multiple interpretations.

23. In at least 20 calendar weeks in the year 2000, the entity or entities who owned the restaurant in the Whitehall Hotel where Eric Oden worked in 2001 had more than 500 individuals on its payroll.

ANSWER: **Defendants object to Request to Admit No. 23 as it seeks information from unnamed and unidentified non parties. Requests for admission are not discovery devices but, rather, are used to establish the truth or genuineness of a matter in order to eliminate the need to prove the matter at trial or to limit the triable issues of fact. Defendants object because contrary to Rule 36(a) of the Fed. R.C.P., the request does not seek information within the scope of Rule 26(b)(1) of the Fed. R.C.P., because it seeks information concerning unidentified and unnamed non-parties.**

Defendants are unable to admit or deny Request to Admit No. 23 because the form of the request is compound and calls for a legal conclusion and because use of the phrase "who owned the restaurant" is vague, ambiguous and susceptible to multiple interpretations.

24. In at least 20 calendar weeks in the year 2001, the entity or entities who owned the restaurant in the Whitehall Hotel where Eric Oden worked in 2001 had more than 500 individuals on its payroll.

ANSWER: **Defendants object to Request to Admit No. 24 as it seeks information from unnamed and unidentified non parties. Requests for admission are not discovery devices but, rather, are used to establish the truth or genuineness of a matter in order to**

eliminate the need to prove the matter at trial or to limit the triable issues of fact. Defendants object because contrary to Rule 36(a) of the Fed. R.C.P., the request does not seek information within the scope of Rule 26(b)(1) of the Fed. R.C.P., because it seeks information concerning unidentified and unnamed non-parties.

Defendants are unable to admit or deny Request to Admit No. 24 because the form of the request is compound and calls for a legal conclusion and because use of the phrase "who owned the restaurant" is vague, ambiguous and susceptible to multiple interpretations.

25. In at least 20 calendar weeks in the year 2000, the entity or entities who operated the restaurant in the Whitehall Hotel where Eric Oden worked in 2001 had more than 14 individuals on its payroll.

ANSWER: Defendants object to Request to Admit No. 25 as it seeks information from unnamed and unidentified non parties. Requests for admission are not discovery devices but, rather, are used to establish the truth or genuineness of a matter in order to eliminate the need to prove the matter at trial or to limit the triable issues of fact. Defendants object because contrary to Rule 36(a) of the Fed. R.C.P., the request does not seek information within the scope of Rule 26(b)(1) of the Fed. R.C.P., because it seeks information concerning unidentified and unnamed non-parties.

Defendants are unable to admit or deny Request to Admit No. 25 because the form of the request is compound and calls for a legal conclusion and because use of the phrase "who operated the restaurant" is vague, ambiguous and susceptible to multiple interpretations.

26. In at least 20 calendar weeks in the year 2001, the entity or entities who operated the restaurant in the Whitehall Hotel where Eric Oden worked in 2001 had more than 14 individuals on its payroll.

ANSWER: Defendants object to Request to Admit No. 26 as it seeks information from unnamed and unidentified non parties. Requests for admission are not discovery devices but, rather, are used to establish the truth or genuineness of a matter in order to eliminate the need to prove the matter at trial or to limit the triable issues of fact. Defendants object because contrary to Rule 36(a) of the Fed. R.C.P., the request does not seek information within the scope of Rule 26(b)(1) of the Fed. R.C.P., because it seeks information concerning unidentified and unnamed non-parties.

Defendants are unable to admit or deny Request to Admit No. 26 because the form of the request is compound and calls for a legal conclusion and because use of the phrase "who operated the restaurant" is vague, ambiguous and susceptible to multiple interpretations.

27. In at least 20 calendar weeks in the year 2000, the entity or entities who operated the restaurant in the Whitehall Hotel where Eric Oden worked in 2001 had more than 100 individuals on its payroll.

ANSWER: Defendants object to Request to Admit No. 27 as it seeks information from unnamed and unidentified non parties. Requests for admission are not discovery devices but, rather, are used to establish the truth or genuineness of a matter in order to eliminate the need to prove the matter at trial or to limit the triable issues of fact. Defendants object because contrary to Rule 36(a) of the Fed. R.C.P., the request does not seek information within the scope of Rule 26(b)(1) of the Fed. R.C.P., because it seeks information concerning unidentified and unnamed non-parties.

Defendants are unable to admit or deny Request to Admit No. 27 because the form of the request is compound and calls for a legal conclusion and because use of the phrase "who operated the restaurant" is vague, ambiguous and susceptible to multiple interpretations.

28. In at least 20 calendar weeks in the year 2001, the entity or entities who operated the restaurant in the Whitehall Hotel where Eric Oden worked in 2001 had more than 100 individuals on its payroll.

ANSWER: Defendants object to Request to Admit No. 28 as it seeks information from unnamed and unidentified non parties. Requests for admission are not discovery devices but, rather, are used to establish the truth or genuineness of a matter in order to eliminate the need to prove the matter at trial or to limit the triable issues of fact. Defendants object because contrary to Rule 36(a) of the Fed. R.C.P., the request does not seek information within the scope of Rule 26(b)(1) of the Fed. R.C.P., because it seeks information concerning unidentified and unnamed non-parties.

Defendants are unable to admit or deny Request to Admit No. 28 because the form of the request is compound and calls for a legal conclusion and because use of the phrase "who operated the restaurant" is vague, ambiguous and susceptible to multiple interpretations.

29. In at least 20 calendar weeks in the year 2000, the entity or entities who operated the restaurant in the Whitehall Hotel where Eric Oden worked in 2001 had more than 200 individuals on its payroll.

ANSWER: Defendants object to Request to Admit No. 29 as it seeks information from unnamed and unidentified non parties. Requests for admission are not discovery devices but, rather, are used to establish the truth or genuineness of a matter in order to eliminate the need to prove the matter at trial or to limit the triable issues of fact. Defendants object because contrary to Rule 36(a) of the Fed. R.C.P., the request does not seek information within the scope of Rule 26(b)(1) of the Fed. R.C.P., because it seeks information concerning unidentified and unnamed non-parties.

Defendants are unable to admit or deny Request to Admit No. 29 because the form of the request is compound and calls for a legal conclusion and because use of the phrase "who operated the restaurant" is vague, ambiguous and susceptible to multiple interpretations.

30. In at least 20 calendar weeks in the year 2001, the entity or entities who operated the restaurant in the Whitehall Hotel where Eric Oden worked in 2001 had more than 200 individuals on its payroll.

ANSWER: **Defendants object to Request to Admit No. 30 as it seeks information from unnamed and unidentified non parties. Requests for admission are not discovery devices but, rather, are used to establish the truth or genuineness of a matter in order to eliminate the need to prove the matter at trial or to limit the triable issues of fact. Defendants object because contrary to Rule 36(a) of the Fed. R.C.P., the request does not seek information within the scope of Rule 26(b)(1) of the Fed. R.C.P., because it seeks information concerning unidentified and unnamed non-parties.**

Defendants are unable to admit or deny Request to Admit No. 30 because the form of the request is compound and calls for a legal conclusion and because use of the phrase "who operated the restaurant" is vague, ambiguous and susceptible to multiple interpretations.

31. In at least 20 calendar weeks in the year 2000, the entity or entities who operated the restaurant in the Whitehall Hotel where Eric Oden worked in 2001 had more than 500 individuals on its payroll.

ANSWER: **Defendants object to Request to Admit No. 31 as it seeks information from unnamed and unidentified non parties. Requests for admission are not discovery devices but, rather, are used to establish the truth or genuineness of a matter in order to eliminate the need to prove the matter at trial or to limit the triable issues of fact. Defendants object because contrary to Rule 36(a) of the Fed. R.C.P., the request does not seek information within the scope of Rule 26(b)(1) of the Fed. R.C.P., because it seeks information concerning unidentified and unnamed non-parties.**

Defendants are unable to admit or deny Request to Admit No. 31 because the form of the request is compound and calls for a legal conclusion and because use of the phrase "who operated the restaurant" is vague, ambiguous and susceptible to multiple interpretations.

32. In at least 20 calendar weeks in the year 2001, the entity or entities who operated the restaurant in the Whitehall Hotel where Eric Oden worked in 2001 had more than 500 individuals on its payroll.

ANSWER: **Defendants object to Request to Admit No. 32 as it seeks information from unnamed and unidentified non parties. Requests for admission are not discovery devices but, rather, are used to establish the truth or genuineness of a matter in order to eliminate the need to prove the matter at trial or to limit the triable issues of fact. Defendants object because contrary to Rule 36(a) of the Fed. R.C.P., the request does not seek information within the scope of Rule 26(b)(1) of the Fed. R.C.P., because it seeks information concerning unidentified and unnamed non-parties.**

Defendants are unable to admit or deny Request to Admit No. 32 because the form of the request is compound and calls for a legal conclusion and because use of the phrase "who operated the restaurant" is vague, ambiguous and susceptible to multiple interpretations.

33. In at least 20 calendar weeks in the year 2000, the entity or entities who owned the Whitehall Hotel where Eric Oden worked in 2001 had more than 14 individuals on its payroll.

ANSWER: Defendants object to Request to Admit No. 33 as it seeks information from unnamed and unidentified non parties. Requests for admission are not discovery devices but, rather, are used to establish the truth or genuineness of a matter in order to eliminate the need to prove the matter at trial or to limit the triable issues of fact. Defendants object because contrary to Rule 36(a) of the Fed. R.C.P., the request does not seek information within the scope of Rule 26(b)(1) of the Fed. R.C.P., because it seeks information concerning unidentified and unnamed non-parties.

Defendants are unable to admit or deny Request to Admit No. 33 because the form of the request is compound and calls for a legal conclusion and because use of the phrase "who owned the Whitehall Hotel" is vague, ambiguous and susceptible to multiple interpretations.

34. In at least 20 calendar weeks in the year 2001, the entity or entities who owned the Whitehall Hotel where Eric Oden worked in 2001 had more than 14 individuals on its payroll.

ANSWER: Defendants object to Request to Admit No. 34 as it seeks information from unnamed and unidentified non parties. Requests for admission are not discovery devices but, rather, are used to establish the truth or genuineness of a matter in order to eliminate the need to prove the matter at trial or to limit the triable issues of fact. Defendants object because contrary to Rule 36(a) of the Fed. R.C.P., the request does not seek information within the scope of Rule 26(b)(1) of the Fed. R.C.P., because it seeks information concerning unidentified and unnamed non-parties.

Defendants are unable to admit or deny Request to Admit No. 34 because the form of the request is compound and calls for a legal conclusion and because use of the phrase "who owned the Whitehall Hotel" is vague, ambiguous and susceptible to multiple interpretations.

35. In at least 20 calendar weeks in the year 2000, the entity or entities who owned the Whitehall Hotel where Eric Oden worked in 2001 had more than 100 individuals on its payroll.

ANSWER: Defendants object to Request to Admit No. 35 as it seeks information from unnamed and unidentified non parties. Requests for admission are not discovery devices but, rather, are used to establish the truth or genuineness of a matter in order to eliminate the need to prove the matter at trial or to limit the triable issues of fact.

Defendants object because contrary to Rule 36(a) of the Fed. R.C.P., the request does not seek information within the scope of Rule 26(b)(1) of the Fed. R.C.P., because it seeks information concerning unidentified and unnamed non-parties.

Defendants are unable to admit or deny Request to Admit No. 35 because the form of the request is compound and calls for a legal conclusion and because use of the phrase "who owned the Whitehall Hotel" is vague, ambiguous and susceptible to multiple interpretations.

36. In at least 20 calendar weeks in the year 2001, the entity or entities who owned the Whitehall Hotel where Eric Oden worked in 2001 had more than 100 individuals on its payroll.

ANSWER: **Defendants object to Request to Admit No. 36 as it seeks information from unnamed and unidentified non parties. Requests for admission are not discovery devices but, rather, are used to establish the truth or genuineness of a matter in order to eliminate the need to prove the matter at trial or to limit the triable issues of fact. Defendants object because contrary to Rule 36(a) of the Fed. R.C.P., the request does not seek information within the scope of Rule 26(b)(1) of the Fed. R.C.P., because it seeks information concerning unidentified and unnamed non-parties.**

Defendants are unable to admit or deny Request to Admit No. 36 because the form of the request is compound and calls for a legal conclusion and because use of the phrase "who owned the Whitehall Hotel" is vague, ambiguous and susceptible to multiple interpretations.

37. In at least 20 calendar weeks in the year 2000, the entity or entities who owned the Whitehall Hotel where Eric Oden worked in 2001 had more than 200 individuals on its payroll.

ANSWER: **Defendants object to Request to Admit No. 37 as it seeks information from unnamed and unidentified non parties. Requests for admission are not discovery devices but, rather, are used to establish the truth or genuineness of a matter in order to eliminate the need to prove the matter at trial or to limit the triable issues of fact. Defendants object because contrary to Rule 36(a) of the Fed. R.C.P., the request does not seek information within the scope of Rule 26(b)(1) of the Fed. R.C.P., because it seeks information concerning unidentified and unnamed non-parties.**

Defendants are unable to admit or deny Request to Admit No. 37 because the form of the request is compound and calls for a legal conclusion and because use of the phrase "who owned the Whitehall Hotel" is vague, ambiguous and susceptible to multiple interpretations.

38. In at least 20 calendar weeks in the year 2001, the entity or entities who owned the Whitehall Hotel where Eric Oden worked in 2001 had more than 200 individuals on its payroll.

ANSWER: Defendants object to Request to Admit No. 38 as it seeks information from unnamed and unidentified non parties. Requests for admission are not discovery devices but, rather, are used to establish the truth or genuineness of a matter in order to eliminate the need to prove the matter at trial or to limit the triable issues of fact. Defendants object because contrary to Rule 36(a) of the Fed. R.C.P., the request does not seek information within the scope of Rule 26(b)(1) of the Fed. R.C.P., because it seeks information concerning unidentified and unnamed non-parties.

Defendants are unable to admit or deny Request to Admit No. 38 because the form of the request is compound and calls for a legal conclusion and because use of the phrase "who owned the Whitehall Hotel" is vague, ambiguous and susceptible to multiple interpretations.

39. In at least 20 calendar weeks in the year 2000, the entity or entities who owned the Whitehall Hotel where Eric Oden worked in 2001 had more than 500 individuals on its payroll.

ANSWER: Defendants object to Request to Admit No. 39 as it seeks information from unnamed and unidentified non parties. Requests for admission are not discovery devices but, rather, are used to establish the truth or genuineness of a matter in order to eliminate the need to prove the matter at trial or to limit the triable issues of fact. Defendants object because contrary to Rule 36(a) of the Fed. R.C.P., the request does not seek information within the scope of Rule 26(b)(1) of the Fed. R.C.P., because it seeks information concerning unidentified and unnamed non-parties.

Defendants are unable to admit or deny Request to Admit No. 39 because the form of the request is compound and calls for a legal conclusion and because use of the phrase "who owned the Whitehall Hotel" is vague, ambiguous and susceptible to multiple interpretations.

40. In at least 20 calendar weeks in the year 2001, the entity or entities who owned the Whitehall Hotel where Eric Oden worked in 2001 had more than 500 individuals on its payroll.

ANSWER: Defendants object to Request to Admit No. 40 as it seeks information from unnamed and unidentified non parties. Requests for admission are not discovery devices but, rather, are used to establish the truth or genuineness of a matter in order to eliminate the need to prove the matter at trial or to limit the triable issues of fact. Defendants object because contrary to Rule 36(a) of the Fed. R.C.P., the request does not seek information within the scope of Rule 26(b)(1) of the Fed. R.C.P., because it seeks information concerning unidentified and unnamed non-parties.

Defendants are unable to admit or deny Request to Admit No. 40 because the form of the request is compound and calls for a legal conclusion and because use of the phrase "who owned the Whitehall Hotel" is vague, ambiguous and susceptible to multiple interpretations.

41. In at least 20 calendar weeks in the year 2000, the entity or entities who owned the Whitehall Hotel where Eric Oden worked in 2001 had more than 14 individuals on its payroll.

ANSWER: Defendants object to Request to Admit No. 41 as it seeks information from unnamed and unidentified non parties. Requests for admission are not discovery devices but, rather, are used to establish the truth or genuineness of a matter in order to eliminate the need to prove the matter at trial or to limit the triable issues of fact. Defendants object because contrary to Rule 36(a) of the Fed. R.C.P., the request does not seek information within the scope of Rule 26(b)(1) of the Fed. R.C.P., because it seeks information concerning unidentified and unnamed non-parties.

Defendants are unable to admit or deny Request to Admit No. 41 because the form of the request is compound and calls for a legal conclusion and because use of the phrase "who owned the Whitehall Hotel" is vague, ambiguous and susceptible to multiple interpretations.

42. In at least 20 calendar weeks in the year 2001, the entity or entities who operated the Whitehall Hotel where Eric Oden worked in 2001 had more than 14 individuals on its payroll.

ANSWER: Defendants object to Request to Admit No. 42 as it seeks information from unnamed and unidentified non parties. Requests for admission are not discovery devices but, rather, are used to establish the truth or genuineness of a matter in order to eliminate the need to prove the matter at trial or to limit the triable issues of fact. Defendants object because contrary to Rule 36(a) of the Fed. R.C.P., the request does not seek information within the scope of Rule 26(b)(1) of the Fed. R.C.P., because it seeks information concerning unidentified and unnamed non-parties.

Defendants are unable to admit or deny Request to Admit No. 42 because the form of the request is compound and calls for a legal conclusion and because use of the phrase "who operated the Whitehall Hotel" is vague, ambiguous and susceptible to multiple interpretations.

43. In at least 20 calendar weeks in the year 2000, the entity or entities who operated the Whitehall Hotel where Eric Oden worked in 2001 had more than 100 individuals on its payroll.

ANSWER: Defendants object to Request to Admit No. 43 as it seeks information from unnamed and unidentified non parties. Requests for admission are not discovery devices but, rather, are used to establish the truth or genuineness of a matter in order to eliminate the need to prove the matter at trial or to limit the triable issues of fact. Defendants object because contrary to Rule 36(a) of the Fed. R.C.P., the request does not seek information within the scope of Rule 26(b)(1) of the Fed. R.C.P., because it seeks information concerning unidentified and unnamed non-parties.

Defendants are unable to admit or deny Request to Admit No. 43 because the form of the request is compound and calls for a legal conclusion and because use of the phrase "who operated the Whitehall Hotel" is vague, ambiguous and susceptible to multiple interpretations.

44. In at least 20 calendar weeks in the year 2001, the entity or entities who operated the Whitehall Hotel where Eric Oden worked in 2001 had more than 100 individuals on its payroll.

ANSWER: Defendants object to Request to Admit No. 44 as it seeks information from unnamed and unidentified non parties. Requests for admission are not discovery devices but, rather, are used to establish the truth or genuineness of a matter in order to eliminate the need to prove the matter at trial or to limit the triable issues of fact. Defendants object because contrary to Rule 36(a) of the Fed. R.C.P., the request does not seek information within the scope of Rule 26(b)(1) of the Fed. R.C.P., because it seeks information concerning unidentified and unnamed non-parties.

Defendants are unable to admit or deny Request to Admit No. 44 because the form of the request is compound and calls for a legal conclusion and because use of the phrase "who operated the Whitehall Hotel" is vague, ambiguous and susceptible to multiple interpretations.

45. In at least 20 calendar weeks in the year 2000, the entity or entities who operated the Whitehall Hotel where Eric Oden worked in 2001 had more than 200 individuals on its payroll.

ANSWER: Defendants object to Request to Admit No. 45 as it seeks information from unnamed and unidentified non parties. Requests for admission are not discovery devices but, rather, are used to establish the truth or genuineness of a matter in order to eliminate the need to prove the matter at trial or to limit the triable issues of fact. Defendants object because contrary to Rule 36(a) of the Fed. R.C.P., the request does not seek information within the scope of Rule 26(b)(1) of the Fed. R.C.P., because it seeks information concerning unidentified and unnamed non-parties.

Defendants are unable to admit or deny Request to Admit No. 45 because the form of the request is compound and calls for a legal conclusion and because use of the phrase "who operated the Whitehall Hotel" is vague, ambiguous and susceptible to multiple interpretations.

46. In at least 20 calendar weeks in the year 2001, the entity or entities who operated the Whitehall Hotel where Eric Oden worked in 2001 had more than 200 individuals on its payroll.

ANSWER: Defendants object to Request to Admit No. 46 as it seeks information

from unnamed and unidentified non parties. Requests for admission are not discovery devices but, rather, are used to establish the truth or genuineness of a matter in order to eliminate the need to prove the matter at trial or to limit the triable issues of fact. Defendants object because contrary to Rule 36(a) of the Fed. R.C.P., the request does not seek information within the scope of Rule 26(b)(1) of the Fed. R.C.P., because it seeks information concerning unidentified and unnamed non-parties.

Defendants are unable to admit or deny Request to Admit No. 46 because the form of the request is compound and calls for a legal conclusion and because use of the phrase "who operated the Whitehall Hotel" is vague, ambiguous and susceptible to multiple interpretations.

47. In at least 20 calendar weeks in the year 2000, the entity or entities who operated the Whitehall Hotel where Eric Oden worked in 2001 had more than 500 individuals on its payroll.

ANSWER: Defendants object to Request to Admit No. 47 as it seeks information from unnamed and unidentified non parties. Requests for admission are not discovery devices but, rather, are used to establish the truth or genuineness of a matter in order to eliminate the need to prove the matter at trial or to limit the triable issues of fact. Defendants object because contrary to Rule 36(a) of the Fed. R.C.P., the request does not seek information within the scope of Rule 26(b)(1) of the Fed. R.C.P., because it seeks information concerning unidentified and unnamed non-parties.

Defendants are unable to admit or deny Request to Admit No. 47 because the form of the request is compound and calls for a legal conclusion and because use of the phrase "who operated the Whitehall Hotel" is vague, ambiguous and susceptible to multiple interpretations.

48. In at least 20 calendar weeks in the year 2001, the entity or entities who operated the Whitehall Hotel where Eric Oden worked in 2001 had more than 500 individuals on its payroll.

ANSWER: Defendants object to Request to Admit No. 48 as it seeks information from unnamed and unidentified non parties. Requests for admission are not discovery devices but, rather, are used to establish the truth or genuineness of a matter in order to eliminate the need to prove the matter at trial or to limit the triable issues of fact. Defendants object because contrary to Rule 36(a) of the Fed. R.C.P., the request does not seek information within the scope of Rule 26(b)(1) of the Fed. R.C.P., because it seeks information concerning unidentified and unnamed non-parties.

Defendants are unable to admit or deny Request to Admit No. 48 because the form of the request is compound and calls for a legal conclusion and because use of the phrase "who operated the Whitehall Hotel" is vague, ambiguous and susceptible to multiple interpretations.

Respectfully submitted,

By: ______________________
One of Defendant's Attorneys

Susan Bogart
Law Offices of Susan Bogart
30 North LaSalle St., Ste. 2900
Chicago, IL 60602
(312) 263-0900 ext. 7014

J. Joseph Little
Law Offices
One East Wacker Drive
Suite 2222
Chicago, IL 60601
(312) 644-6831

CERTIFICATE OF SERVICE

The undersigned attorney does hereby certify that he caused to be served upon counsel for EEOC, Jeanne Szromba, 500 West Madison St., Ste. 2800, Chicago, IL 60661 Defendants Responses and Objections to the EEOC's Requests to Admit by depositing a copy of same in the U.S. mails on the 9th day of September, 2004.

EXHIBIT C

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,	
Plaintiff,	**No. 03 C 6851**
v.	**Judge John W. Darrah**
	U.S. Magistrate Judge Ashman
WHITEHALL HOTEL, LTD. and WHITEHALL HOTEL RESTAURANT, INC.	
Defendants.	

TO: ALL PERSONS ON ATTACHED SERVICE LIST

NOTICE OF 30(b)(6) DEPOSITION

PLEASE TAKE NOTICE that, pursuant to Rule 30(b)(6) of the Federal Rules of Civil Procedure, Plaintiff Equal Employment Opportunity Commission (the "EEOC") shall take the deposition upon oral examination of Defendants Whitehall Hotel, Ltd. and Whitehall Hotel Restaurant, Inc. ("Whitehall"), on **Wednesday, September 22, 2004** commencing at 9:30 a.m., before a certified court reporter, at the offices of EEOC, 500 W. Madison, Suite 2800, Chicago, Illinois. At the scheduled time and place, Defendants shall present the officers(s), agent(s), or employee(s) who is (are) designated by Defendants to testify on its behalf and who has/have knowledge about the subject matters set forth below. Defendants shall identify prior to the deposition such person or persons who will testify about each subject. The deposition will continue from day to day until completed. The instructions and definitions as set forth in the EEOC's First Set of Interrogatories and Request for Production of Documents should be followed in response to this Notice of Deposition.

Subjects of Deposition

1. Identity of the entity or entities who a) owned the restaurant in the Whitehall Hotel where Eric Oden worked in 2001; and b) operated the restaurant in the Whitehall Hotel where Eric Oden worked in 2001.

2. Identity of the entity or entities who a) owned the Whitehall Hotel in which Eric Oden worked in 2001; and b) operated the Whitehall Hotel in which Eric Oden worked in 2001.

3. Identity of and explanation of any and all legal, contractual, and managerial relationships between or among the entities identified above.

4. Identity of and explanation of any and all relationships between and among Whitehall Hotel, Ltd. and its parent, subsidiary(ies), and affiliates.

5. Identity of and explanation of any and all relationships between and among Whitehall Hotel Restaurant Inc. and its parent, subsidiary(ies), and affiliates.

6. The number and identity of employees employed on each day of calendar years 2000 and 2001 by the entity who owned and operated the restaurant in the Whitehall Hotel where Eric Oden worked.

7. The number and identity of employees employed on each day of calendar years 2000 and 2001 by the entity who owned and operated the Whitehall Hotel where Eric Oden worked.

8. The number and identity of employees employed by the Whitehall Hotel Restaurant Inc. on each day of calendar years 2000 and 2001.

9. The number and identity of employees employed by the Whitehall Hotel Ltd. on each day of calendar years 2000 and 2001.

10. Identity of the entity that employed Danella Walker at any time during 2001.

11. Identity of the entity that employed Thomas Belelieu at any time during 2001.

Documents to Be Produced Prior to Deposition

1. Payroll records from Whitehall Hotel Restaurant Inc. from 2000 and 2001.

2. Payroll records from Whitehall Hotel, Ltd. from 2000 and 2001.

3. Payroll records from 2000 and 2001 from the entity that owned and operated the Whitehall Hotel where Eric Oden worked.

4. Payroll records from 2000 and 2001 from the entity that owned and operated the restaurant in the Whitehall Hotel where Eric Oden worked.

September 14, 2004

Respectfully submitted,

Jeanne B. Szromba

Jeanne B. Szromba
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
500 West Madison Street
Suite 2800
Chicago, Illinois 60661
(312) 353-7546

CERTIFICATE OF SERVICE

Jeanne B. Szromba, an attorney, hereby certifies that she caused a copy of the foregoing Notice of 30 (b)(6) Deposition to be sent to counsel of record at the following addresses:

By Hand Delivery
Susan Bogart.
Law Offices of Susan Bogart
30 North LaSalle Street
Suite 2900
Chicago, Illinois 60602

By U.S. Mail
J. Joseph Little
One East Wacker Drive
Suite 2222
Chicago, Illinois 60601

Dated: September 14, 2004

Jeanne B. Szromba
Jeanne B. Szromba

EXHIBIT D

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Chicago District Office

500 West Madison St., Suite 2800
Chicago, IL 60661-2511
PH: (312) 353-2713
TTY: (312) 353-2421

FILE REVIEWS FAX: (312) 353-4041
MEDIATION FAX: (312) 353-6676
HEARINGS FAX: (312) 886-5391

STATE & LOCAL FAX: (312) 353-4041
ENFORCEMENT FAX: (312) 886-1168
LEGAL FAX: (312) 353-8555

December 17, 2004

Via U.S. Mail and Facsimile (312) 263-5013

Susan Bogart, Esq.
Law Offices of Susan Bogart
30 North LaSalle Street
Suite 2900
Chicago, Illinois 60602

Re: EEOC v. Whitehall, 03 C 6851

Dear Ms. Bogart:

Pursuant to Judge Darrah's December 8, 2004 Order, Defendants must respond to certain discovery requests made by EEOC because such requested information has been ruled by the Court to be discoverable. Please provide these responses on or before December 31, 2004:

1. Responses to EEOC's First Request for Admission, Nos. 17-48.

2. In response to EEOC's First Request for Admission No. 2, Defendants deny that, in at least 20 calendar weeks in the year 2001, Whitehall Hotel Restaurant, Inc. had more than 14 employees on its payroll, yet Defendants produced payroll documents belying that claim. For example, according to payroll records produced by Defendants, in the first 20 weeks of 2001, Whitehall Hotel Restaurant, Inc. employed the following number of employees:

2001	Number of Employees
Pay Period 1 (Weeks 1 and 2):	19
Pay Period 2 (Weeks 3 and 4):	17
Pay Period 3 (Weeks 5 and 6):	19
Pay Period 4 (Weeks 7 and 8):	17
Pay Period 5 (Weeks 9 and 10):	17
Pay Period 6 (Weeks 11 and 12):	20
Pay Period 7 (Weeks 13 and 14):	20
Pay Period 8 (Weeks 15 and 16):	20

Pay Period 9 (Weeks 17 and 18):	18
Pay Period 10 (Weeks 19 and 20):	17

Please correct your response to EEOC's First Request for Admission No. 2 on or before December 31, 2004, or EEOC will seek fees and costs for bringing a motion in court under Rule 37(c).

3. Responses to EEOC's Second Set of Interrogatories, Nos. 11, 12, and 13.

4. Financial information sought in EEOC's First Request for Production of Documents.

EEOC is entitled to all of the above information and it is all the subject of discovery requests already submitted by EEOC. If Defendants do not provide this information on or before December 31, 2004, EEOC will be forced to file a motion to compel.

Sincerely,

Jeanne B. Szromba

Jeanne B. Szromba

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Chicago District Office

500 West Madison St., Suite 2800
Chicago, IL 60661
PH: (312) 353-2713
TDD: (312) 353-2421
ENFORCEMENT FAX: (312) 886-1168
LEGAL FAX: (312) 353-8555

TELEFAX TRANSMITTAL COVER PAGE
OFFICIAL GOVERNMENT BUSINESS

Date: December 17, 2004

Please deliver the following pages to:

Name: **Susan Bogart, Esq.** Fax Number: **312-263-5013**

Re: EEOC v. Whitehall, 03 C 6851.

From: Jeanne B. Szromba, Esq.,Trial Attorney (312) 353-7546

Total number of pages: 3 (including cover page)

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Page : 001
Date & Time: 17-Dec-2004 01:17pm
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Job number	: 043
Date	: 17-Dec 01:16pm
To	: ☎913122635013
Number of pages	: 003
Start time	: 17-Dec 01:16pm
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Status	: OK

Job number : 043 *** SEND SUCCESSFUL ***

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Date: December 17, 2004

Please deliver the following pages to:

Name: Susan Bogart, Esq. Fax Number: 312-263-5013

Re: EEOC v. Whitehall, 03 C 6351.

From: Jeanne B. Szromba, Esq., Trial Attorney (312) 353-7546
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SPECIAL INSTRUCTIONS / COMMENTS:

EXHIBIT E

SUSAN BOGART
LAW OFFICES OF SUSAN BOGART
30 NORTH LASALLE STREET - 29TH FLOOR
CHICAGO, ILLINOIS 60602

PHONE: (312) 263-0900 ext 7014 *FACSIMILE: (312) 263-5013*

January 5, 2005

Via Facsimile

Jeanne Szromba
EEOC
500 West Madison Street
Chicago, IL 60661

Re: *EEOC v. Whitehall*, 04 C 6831

Dear Ms. Szromba:

This letter will address your letters dated December 17 and 21, 2004.

December 17, 2004 Letter

First, let me advise that I find these letters quite confusing. As you know, the December 8 order to which you refer in your December 17 letter was Judge Darrah's denial of Defendants' Motion for Protective Order regarding the Rule 30(b)(6) deposition notice of the EEOC. As you also know, Defendants have previously identified Danella Walker as the person who would appear and answer questions 1-11 in the Deposition Notice. Indeed, Defendants offered to have Ms. Walker testify to the contents of the Notice during her earlier depositions, and indeed she did so testify as to certain of the items, but the EEOC refused to proceed as to all items to which defendants did not exist. Thus, as to items 1-11, what remains is scheduling Ms. Walker's deposition. If you wish to provide me with dates, I can contact her and determine which of the dates you propose work for her as well as myself.

Second, as my letter of today's date indicates, we have already produced all documents responsive to the document request contained in the Rule 30(b)(6) with the exception of document request number 3. We are prepared to make those records available for inspection at my office as of Friday or we can forward to a copying service which you designate for copying at your expense. The documents are as I have indicated voluminous.

Third, the court's December 8 order did not address any other discovery requests of the defendant. Thus, your paragraphs numbered 1,3, and 4 in your December 17 were not the subject of the court's order and I have no idea what you are saying as defendants have filed responses to all your discovery requests and those responses are complete to the best of defendants knowledge. Also, to the extent that you intended your December 17 letter to be a Rule 37 request to resolve disagreements as to discovery, I am not aware of what the disagreements are as to these discovery items so please advise me. Your December 17 letter does not do that.

Fourth, we are not able to verify as of this date the counting you set forth in paragraph 2 of your December 17 letter. Again, this was not the subject of the Court's December 8 order. We are endeavoring to determine how you arrived at the numbers you list there and to determine if the numbers you list are accurate. Your arbitrary date of compliance of December 31 was, as I indicated in our telephone conversations and subsequently confirmed by email, not the subject of a court order as your December 17 letter might be read to imply and is entirely unreasonable due to the vacation schedules of Whitehall personnel and myself. Nevertheless, that task is and has been underway since January 3 and will be completed I expect within the next couple days. If a supplemental response to Request to Admit No. 2 is in order, we will supplement our response.

December 21, 2004 Letter

Fifth, please be advised that defendants have responded to defendants First Document Request No. 15 and in fact served you with Supplemental Responses on September 22, 2004 which included a supplement to Request No. 15. Thus, your suggestion that we have not previously done so following your August 4 Motion to Compel is incorrect.

Sixth, you assert in your December 21 letter that the "EEOC also claims that the following question asked on Defendants' application was illegal: Have you ever been seriously injured? ()No () Yes. Please describe." While this is the first that I am aware of such a claim, b because there is no document or pleading or discovery request that I could find in which this alleged claim has ever been identified, I am not sure of the purpose of your assertion on December 21, 2004. Thus, there does not appear to be anything that Whitehall can address insofar as this assertion is concerned.

Seventh, attached to your December 21 letter is a "Second Request for Production of Documents". This was served by facsimile on defendants on December 21, 2004. Thus, defendants have until January 20, 2005 to respond. However, let me advise that per the testimony of Danella Walker, the first such application revision was produced to the EEOC's investigator in 2001 for approval and approval was received. So, a copy of this revised application should be in your files.

Very truly yours,

Susan Bogart

SUSAN BOGART

EXHIBIT F

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Chicago District Office

500 West Madison St., Suite 2800
Chicago, IL 60661-2511
PH: (312) 353-2713
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STATE & LOCAL FAX: (312) 353-4041
ENFORCEMENT FAX: (312) 886-1168
LEGAL FAX: (312) 353-8555

January 12, 2005

By Facsimile (312) 263-5013
Susan Bogart, Esq.
Law Offices of Susan Bogart
30 North LaSalle Street
Suite 2900
Chicago, Illinois 60602

Re: EEOC v. Whitehall, 03 C 6851

Dear Ms. Bogart:

I am writing, pursuant to Rule 37, in response to your letter of January 5, 2005 in which you request some clarification on some discovery issues.

Rule 30(b)(6) Deposition

1. Please confirm that you and your witness(es) are available on January 27, 2005.

2. Defendants have now produced payroll records from three entities in response to the four document requests submitted as part of EEOC's 30(b)(6) notice. The documents produced yesterday you say are responsive to the third request: payroll records from "the entity that owned and operated the Whitehall Hotel." Please confirm that the payroll records previously produced, labeled Whitehall Hotel Restaurant, were submitted in response to the first request and fourth request ("payroll records . . . from the entity that owned and operated the restaurant in the Whitehall Hotel.. .").

3. Please provide the legal name of the entity whose payroll records were produced to EEOC yesterday.

Whitehall Hotel Restaurant, Inc.

1. Please advise me as to whether you intend to supplement or change your response to EEOC's request to admit with respect to the number of employees at Whitehall Hotel Restaurant, Inc. In your letter of January 5, you say you will know in "a few days."

2. Please confirm that defendants do not have any of the financial records requested by EEOC with respect to Whitehall Hotel Restaurant, Inc.

Applications

1. I have received the heavily redacted application you sent on January 10, 2005. It is not helpful. EEOC needs a ***dated***, filled out employment application in order to determine the earliest date when defendants began using the revised application. Please send the earliest dated application in defendants' possession in response to this document request.

2. In its Document Request No. 15, EEOC asked for all employment applications containing written responses to the questions EEOC claimed were illegal under the ADA. I do not understand your response to this request in your January 5 letter. Are you saying that the only employment application received by defendants between 1999 and 2004 containing such responses was Eric Oden's? Please clarify. If there were others already produced, please identify them. If there are others not yet produced, please produce them.

As you know, our discovery cut-off date in this case is fast approaching. Please provide a response to this letter by January 19, 2005, so that we know whether EEOC must file a motion to compel on any of these issues.

On a different note, I have received your draft Agreed Order. I will review it and get a response to you in the next few days.

Sincerely,

Jeanne B Szromba

Jeanne B. Szromba

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Page : 001
Date & Time: 12-Jan-2005 04:12pm
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Job number	:	293
Date	:	12-Jan 04:11pm
To	:	☎92635013
Number of pages	:	003
Start time	:	12-Jan 04:11pm
End time	:	12-Jan 04:12pm
Pages sent	:	003
Status	:	OK

Job number : 293 *** SEND SUCCESSFUL ***

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Chicago District Office

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FACSIMILE TRANSMITTAL COVER PAGE

OFFICIAL GOVERNMENT BUSINESS
FROM THE EEOC CHICAGO DISTRICT OFFICE LEGAL DIVISION

Date: January 12, 2005

Please deliver the following page(s) to:

Name: Susan Bogart

Fax No: 312-263-5013

From: Jeanne Szromba
Trial Attorney

Phone Number: 312/353-7546

Total Number of Pages: 3 (including transmittal cover page)

Comments: ____________________

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EXHIBIT G

SUSAN BOGART
LAW OFFICES OF SUSAN BOGART
30 NORTH LASALLE ST., STE. 2900
CHICAGO, IL 60602

Tele: 312-263-0900, ext. 7014 ***Facsimile: 312-263-5013***

Date: January 21, 2005

TO: Jeanne Szromba–312-353-8555
J. Little–312-644-5300

FROM: Susan Bogart

Re: EEOC v. Whitehall, 03 C 6831–Response to January 21, 2005 letter.

***************************CONFIDENTIALITY********************************

The documents accompanying this telecopy transmission contain information from the law practice of the Law Offices of Susan Bogart which is confidential or privileged. The information is intended to be for the use of the individual or entity named on this transmission sheet. If you are not the intended recipient, be aware that any disclosure, copying, distribution or use of the contents of this telecopied information is prohibited. If you have received this telecopy in error, please notify us by telephone immediately so that we can arrange for the retrieval of the original documents at no cost to you.
IF YOU DO NOT RECEIVE ALL OF THE PAGES INDICATED ABOVE, PLEASE CALL AS SOON AS POSSIBLE. TELEPHONE: 312-263-5013.

SUSAN BOGART
LAW OFFICES OF SUSAN BOGART
30 NORTH LASALLE STREET - 29TH FLOOR
CHICAGO, ILLINOIS 60602

PHONE: (312) 263-0900 ext 7014 *FACSIMILE: (312) 263-5013*

January 21, 2005

Via Fascimile

Jeanne Szromba
EEOC
500 West Madison St.
Chicago, IL 60661

Re: *EEOC v. Whitehall*, 03 C 6851

Dear Ms. Szromba:

This letter will serve as a response to your letter dated January 12, 2005 which purports to be a Rule 37 letter regarding discovery disputes but seeks "clarification".

1. Yes, we are prepared to proceed on January 27, 2005 with the Rule 30(b)(6) Deposition Notice. We will plan on being at your office at 9:30 a.m.

2. We have produced all documents responsive to Document Requests 1 through 4 of the Rule 30(b)(6) Notice.

3. Again, we have provided all documents responsive to the Rule 30(b)(6) subpoena and has the transmittal indicated, the documents produced to you on January 11 were responsive to request No. 3. The are the records of Whitehall Hotel LLC.

4. I have advised you that we do intend to supplement response to discovery within the discovery period. I did not say a "few days". What I said was within the discovery period.

5. We do not know what "financial records" you are referring to as to the Whitehall Hotel Restaurant Inc. If you are referring to tax returns, as we have advised, we have been unable to date to locate tax returns for this entity for the reasons previously specified. If we do, we will forward them to you.

6. I have responded to your Second Request for Production of Documents, in which you seek the revised Employment Application that was revised in 2001 and provided to your investigator. You sought the earliest completed application and it has been provided to you with a statement that we believe it was filled out in December 2001 or later. It is responsive. That is

the best we can offer as the Application was not dated by the Applicant, but the application was revised as of November 2001 as it reflects. It is responsive to your document request and you do not indicate in what respect it is not. That fact that you do not find it "helpful" is not of course a requirement of the Federal Rules of Civil Procedure.

7. I am still not clear on how defendants have failed to comply with Document Request No. 15. In your letter you request applications from 1999-2004. However, Judge Darrah's order dated August 30, 2004 ruling on your motion to compel, made clear that Defendants were only required to produce "The request for other employees who sought an accommodation during Oden's employment . . ." Oden was employed during a period of 2001. We have complied with that Document Request as I have previously indicated.

Very truly yours,

Susan Bogart

SUSAN BOGART

EXHIBIT H

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Chicago District Office

500 West Madison St., Suite 2800
Chicago, IL 60661-2511
PH: (312) 353-2713
TTY: (312) 353-2421

FILE REVIEWS FAX: (312) 353-4041
MEDIATION FAX: (312) 353-6676
HEARINGS FAX: (312) 886-5391

STATE & LOCAL FAX: (312) 353-4041
ENFORCEMENT FAX: (312) 886-1168
LEGAL FAX: (312) 353-8555

January 27, 2005

By Hand Delivery Prior to 30(b)(6) Deposition

Susan Bogart, Esq.
Law Offices of Susan Bogart
30 North LaSalle Street
Suite 2900
Chicago, Illinois 60602

Re: EEOC v. Whitehall, 03 C 6851

Dear Ms. Bogart:

In your Answer to EEOC's First Amended Complaint, you claim that EEOC does not have jurisdiction over Whitehall Hotel Restaurant, Inc. because that entity does not have the requisite number of employees for coverage under the ADA. In your answer to EEOC's First Request for Admissions, Request No.2, you deny that Whitehall Hotel Restaurant Inc. had more than 14 employees during at least twenty pay periods in 2001. In my letter to you of December 17, 2004, I asked you to correct this response in light of the documents you produced confirming that Whitehall Hotel Restaurant Inc. indeed had more than 14 employees during that time period. To date, you have not done so.

Furthermore, in your answers to EEOC's First Request for Admissions, you refuse to answer the requests relating to the "entity that owned the hotel where Eric Oden worked" and relating to the "entity that operated the hotel where Eric Oden worked." Yet, Danella Walker, in her fact deposition, testified that there were approximately 140 employees working at the Whitehall Hotel during 2001. Please admit, on the record, that the entity that owned and/or operated the hotel where Eric Oden worked employed approximately 140 people in 2001. If you refuse to do so, EEOC will seek fees and costs for bringing a motion in court in accordance with Rule 37(c).

In view of the above, if you continue to refuse to admit that EEOC has jurisdiction over Whitehall Hotel Restaurant Inc., EEOC will be forced to establish jurisdiction during this deposition. If forced to do so, EEOC will seek fees and costs for bringing a motion in court in accordance with Rule 37(c).

Sincerely,

Jeanne B. Szromba

Jeanne B. Szromba

EXHIBIT I

RECEIVED EDOC
JAN 31 2005
CLERK U.S. DISTRICT COURT

Page 1

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

EQUAL EMPLOYMENT OPPORTUNITY)
COMMISSION,)
Plaintiff,)
vs.) No. 03 C 6851
WHITEHALL HOTEL, LTD. and) Hon. John W. Darrah
WHITEHALL HOTEL RESTAURANT,) U.S. Mag. Ashman
INC.,)
Defendants.)

The 30(b)(6) deposition of WHITEHALL HOTEL, LTD., and WHITEHALL HOTEL RESTAURANT, INC., through DANELLA WALKER, called for examination, taken pursuant to the Federal Rules of Civil Procedure of the United States District Courts pertaining to the taking of depositions, taken before V. LINDA BOESCH, a Notary Public within and for the County of DuPage, State of Illinois, and a Certified Shorthand Reporter, CSR No. 84-3108, of said state, at Suite 2800, 500 West Madison Street, Chicago, Illinois, on the 27th day of January, A.D. 2005, at 10:33 a.m.

Page 2

PRESENT:
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,
(500 West Madison Street, Suite 2800,
Chicago, Illinois 60661,
312-886-0193), by:
MR. GREGORY GOCHANOUR,
MS. JEANNE SZROMBA, and
MR. AARON DeCAMP,
appeared on behalf of the Plaintiff;

LAW OFFICES OF SUSAN BOGART,
(30 North LaSalle Street, 29th Floor,
Chicago, Illinois 60602,
312-263-0900), by:
MS. SUSAN BOGART and
MR. JAY LITTLE,
appeared on behalf of the Defendants
and the Deponent.

REPORTED BY: V. LINDA BOESCH, CSR No. 84-3108.

Page 3

MS. SZROMBA: Why don't we just go on the record.
MS. BOGART: It's my position as the counsel for the Defendant that the -- going forward with the 30(b)(6) deposition at this juncture is a waste of everybody's time and money.
We have conceded the jurisdictional issue as to the employer of Mr. Eric Oden in the summary judgment papers. There is, therefore, no jurisdictional issue remaining as to any Defendant that's named.
The 30(b)(6) deposition is intended to be a fishing expedition. It is not focused on any fact that will be relevant to prove any fact in dispute in the summary judgment proceedings in the case pending before the judge.
And if we do prevail in the summary judgment, we will, of course, include all of the exercise as part of our costs, but we want to put the Plaintiff on notice that any objection on the notion that somehow these costs are not necessary are really their doing because we feel that these questions are really irrelevant at this juncture.
MR. GOCHANOUR: Let's start by indicating that

Page 4

this is the 30(b)(6) deposition of Whitehall Hotel, Ltd., and Whitehall Hotel Restaurant, Inc.
Could you swear in the witness, please?
(WHEREUPON, the witness was duly sworn.)
DANELLA WALKER,
called as a witness herein, having been first duly sworn, was examined and testified as follows:
EXAMINATION
BY MR. GOCHANOUR:
Q. Could you state your name for the record, please?
A. Danella Walker.
Q. And what's your position, Ms. Walker?
A. Director of Human Resources.
Q. And what company is your employer?
A. The Whitehall Hotel.
Q. Is that the corporate name of the entity that employs you or does it do business as the Whitehall Hotel?
Do you understand the distinction?
MS. BOGART: That's a compound question.
BY THE WITNESS:
A. Would you clarify that for me, please?

EXHIBIT J

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

SEP 13 2004

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,	)	
Plaintiff,	)	Case No. 03 C 6851
v.	)	Judge John W. Darrah U.S. Magistrate Judge Ashman
WHITEHALL HOTEL LTD., and WHITEHALL HOTEL RESTAURANT, INC.,	)	
Defendants.	)	

DEFENDANTS ANSWER TO EEOC'S SECOND SET OF INTERROGATORIES

NOW COMES, the Whitehall Defendants and in response to the EEOC's Second Set of Interrogatories states as follows:

11. Identify the entity or entities who (a) owned the restaurant in the Whitehall Hotel where Eric Oden worked in 2001; and (b) operated the restaurant in the Whitehall Hotel where Eric Oden worked in 2001.

ANSWER: **The Defendants object to Interrogatory No. 11 under Rule 33 of the Fed. R.C.P. because it seeks information concerning unidentified and unnamed non-parties. Defendants further object on the ground that Interrogatory No. 11 seeks information which is outside the scope of Rule 26 (b)(1) of the Fed. R.C.P. as it does not seek facts which are relevant to this case or which will lead to the discovery of discoverable and admissible evidence. Defendants further object on the ground that Interrogatory No. 11 does not seek facts, but legal conclusions.**

12. Identify the entity or entities who (a) owned the Whitehall Hotel in which Eric Oden worked in 2001; and (b) operated the Whitehall Hotel in which Eric Oden worked in 2001.

ANSWER: **The Defendants object to Interrogatory No. 12 under Rule 33 of the Fed. R.C.P. because it seeks information concerning unidentified and unnamed non-parties. Defendants further object on the ground that Interrogatory No. 11 seeks information which is outside the scope of Rule 26 (b)(1) of the Fed. R.C.P. as it does not seek facts which are relevant to this case or which will lead to the discovery of discoverable and admissible evidence. Defendants further object on the ground that Interrogatory No. 12 does not seek facts, but legal conclusions.**

CERTIFICATE OF SERVICE

The undersigned counsel does hereby certify that he caused to be served upon counsel for the EEOC, Jeanne B. Szromba, EEOC, 500 W. Madison St., Ste. 2800, Chicago, IL 60661 Defendants Responses and Objections to the EEOC's Second Set of Interrogatories by depositing a copy of same in the U.S. mails on the 9th day of September, 2004.

13. Identify and explain any and all legal relationships between or among the entities identified in your Answers to Interrogatory Nos. 11 and 12.

ANSWER: **The Defendants object to Interrogatory No. 13 under Rule 33 of the Fed. R.C.P. because it seeks information concerning unidentified and unnamed non-parties. Defendants further object on the ground that Interrogatory No. 11 seeks information which is outside the scope of Rule 26 (b)(1) of the Fed. R.C.P. as it does not seek facts which are relevant to this case or which will lead to the discovery of discoverable and admissible evidence. Defendants further object on the ground that Interrogatory No. 13 does not seek facts, but conclusions.**

Respectfully submitted,

By: ______________________
One of Defendant's Attorneys

Susan Bogart
Law Offices of Susan Bogart
30 North LaSalle St., Ste. 2900
Chicago, IL 60602
(312) 263-0900 ext. 7014

J. Joseph Little
Law Offices
One East Wacker Drive
Suite 2222
Chicago, IL 60601
(312) 644-6831

EXHIBIT K

Minute Order Form (06/97)

United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge	John W. Darrah	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	03 C 6851	**DATE**	October 12, 2004
CASE TITLE	EEOC v. Whitehall Hotel, Ltd., et al.		

MOTION: [In the following box (a) indicate the party filing the motion, e.g., plaintiff, defendant, 3rd party plaintiff, and (b) state briefly the nature of the motion being presented.]

DOCKET ENTRY:

(1) ☐ Filed motion of [use listing in "Motion" box above.]

(2) ☐ Brief in support of motion due ______.

(3) ☐ Answer brief to motion due______. Reply to answer brief due______.

(4) ☐ Ruling/Hearing on ______ set for ______ at ______.

(5) ☐ Status hearing[held/continued to] [set for/re-set for] on ______ set for ______ at ______.

(6) ☐ Pretrial conference[held/continued to] [set for/re-set for] on ______ set for ______ at ______.

(7) ☐ Trial[set for/re-set for] on ______ at ______.

(8) ☐ [Bench/Jury trial] [Hearing] held/continued to ______ at ______.

(9) ☐ This case is dismissed [with/without] prejudice and without costs[by/agreement/pursuant to] ☐ FRCP4(m) ☐ General Rule 21 ☐ FRCP41(a)(1) ☐ FRCP41(a)(2).

(10) ■ [Other docket entry] Defendants' Motion to Quash is denied. Status hearing scheduled for 10/20/04 is stricken. See reverse side of Minute Order.

(11) ■ [For further detail see order on the reverse side of the original minute order.]

	No notices required, advised in open court.		Document Number
	No notices required.	number of notices	33
	Notices mailed by judge's staff.	OCT 13 2004 date docketed	
	Notified counsel by telephone.		
X	Docketing to mail notices.		
	Mail AO 450 form.	15 docketing deputy initials	
	Copy to judge/magistrate judge.	date mailed notice	
courtroom deputy's initials	Date/time received in central Clerk's Office	mailing deputy initials	

(Reserved for use by the Court)

ORDER

Defendant corporations seek to quash a Rule 30(b)(6) Notice of Deposition in which Plaintiff seeks to have Defendants identify an officer, agent or employee to testify about eleven items regarding, in part, the identity of entities who owned or operated either of the Defendants and the identity and explanation of any and all relationships between and among the Defendants and their parents, subsidiaries and affiliates. Defendants object to all but two of the items, arguing that the information sought is beyond the operations of the Defendants and related to unidentified and unnamed entities. Plaintiff argues that it merely trying to identify the entity that employed the charging party in light of repeated claims by the Defendants that the EEOC was suing the wrong defendant.

"Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim.... Relevant information need not be admissible at trial if the discovery appears to be reasonably calculated to lead to the discovery of admissible evidence...." Fed. R. Civ. P. 26(b)(1).

The information sought by Plaintiff is arguably relevant to the EEOC's claim and appears to be reasonably calculated to lead to the discovery of admissible evidence. Accordingly, Defendants' Motion to Quash is denied.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS

Michael W. Dobbins
CLERK

Office of the Clerk

Gordon G. Waldron
United States Equal Employment Opportunity Commission
500 West Madison Street
Suite 2800
Chicago, IL 60661

Case Number: 1:03-cv-06851

Title: EEOC v. Whitehall Htl Ltd

Assigned Judge: Honorable John W. Darrah

MINUTE ORDER of 10/12/04 by Hon. John W. Darrah : Defendants' motion to quash EEOC's Rule 30(b)(6) subpoena is denied [29-1]. Status hearing scheduled for 10/20/04 is stricken. (See reverse of minute order.) Mailed notice

This docket entry was made by the Clerk on October 13, 2004

ATTENTION: This notice is being sent pursuant to Rule 77(d) of the Federal Rules of Civil Procedure or Rule 49(c) of the Federal Rules of Criminal Procedure. It was generated by ICMS, the automated docketing system used to maintain the civil and criminal dockets of this District. If a minute order or other document is enclosed, please refer to it for additional information.

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EXHIBIT L

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,	)	
Plaintiff,	)	**No. 03 C 6851**
v.	)	**Judge John W. Darrah**
	)	**U.S. Magistrate Judge Ashman**
WHITEHALL HOTEL, LTD. and WHITEHALL HOTEL RESTAURANT, INC.	)	
Defendants.	)	

TO: ALL PERSONS ON ATTACHED SERVICE LIST

RE-NOTICE OF 30(b)(6) DEPOSITION

PLEASE TAKE NOTICE that, pursuant to Rule 30(b)(6) of the Federal Rules of Civil Procedure, Plaintiff Equal Employment Opportunity Commission (the "EEOC") shall take the deposition upon oral examination of Defendants Whitehall Hotel, Ltd. and Whitehall Hotel Restaurant, Inc. ("Whitehall"), on **Tuesday, November 9, 2004** commencing at 9:30 a.m., before a certified court reporter, at the offices of EEOC, 500 W. Madison, Suite 2800, Chicago, Illinois. At the scheduled time and place, Defendants shall present the officers(s), agent(s), or employee(s) who is (are) designated by Defendants to testify on its behalf and who has/have knowledge about the subject matters set forth below. Defendants shall identify prior to the deposition such person or persons who will testify about each subject. The deposition will continue from day to day until completed. The instructions and definitions as set forth in the EEOC's First Set of Interrogatories and Request for Production of Documents should be followed in response to this Notice of Deposition.

Subjects of Deposition

1. Identity of the entity or entities who a) owned the restaurant in the Whitehall Hotel where Eric Oden worked in 2001; and b) operated the restaurant in the Whitehall Hotel where Eric Oden worked in 2001.

2. Identity of the entity or entities who a) owned the Whitehall Hotel in which Eric Oden worked in 2001; and b) operated the Whitehall Hotel in which Eric Oden worked in 2001.

3. Identity of and explanation of any and all legal, contractual, and managerial relationships between or among the entities identified above.

4. Identity of and explanation of any and all relationships between and among Whitehall Hotel, Ltd. and its parent, subsidiary(ies), and affiliates.

5. Identity of and explanation of any and all relationships between and among Whitehall Hotel Restaurant Inc. and its parent, subsidiary(ies), and affiliates.

6. The number and identity of employees employed on each day of calendar years 2000 and 2001 by the entity who owned and operated the restaurant in the Whitehall Hotel where Eric Oden worked.

7. The number and identity of employees employed on each day of calendar years 2000 and 2001 by the entity who owned and operated the Whitehall Hotel where Eric Oden worked.

8. The number and identity of employees employed by the Whitehall Hotel Restaurant Inc. on each day of calendar years 2000 and 2001.

9. The number and identity of employees employed by the Whitehall Hotel Ltd. on each day of calendar years 2000 and 2001.

10. Identity of the entity that employed Danella Walker at any time during 2001.

11. Identity of the entity that employed Thomas Beletieu at any time during 2001.

Documents to Be Produced Prior to Deposition

1. Payroll records from Whitehall Hotel Restaurant Inc. from 2000 and 2001.

2. Payroll records from Whitehall Hotel, Ltd. from 2000 and 2001.

3. Payroll records from 2000 and 2001 from the entity that owned and operated the Whitehall Hotel where Eric Oden worked.

4. Payroll records from 2000 and 2001 from the entity that owned and operated the restaurant in the Whitehall Hotel where Eric Oden worked.

October 28, 2004

Respectfully submitted,

Jeanne B. Szromba

Jeanne B. Szromba
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
500 West Madison Street
Suite 2800
Chicago, Illinois 60661
(312) 353-7546

CERTIFICATE OF SERVICE

Jeanne B. Szromba, an attorney, hereby certifies that she caused a copy of the foregoing Re-Notice of 30 (b)(6) Deposition to be sent to counsel of record at the following addresses:

By Facsimile and U.S. Mail
Susan Bogart.
Law Offices of Susan Bogart
30 North LaSalle Street
Suite 2900
Chicago, Illinois 60602

By U.S. Mail
J. Joseph Little
One East Wacker Drive
Suite 2222
Chicago, Illinois 60601

Dated: October 28, 2004

Jeanne B. Szromba
Jeanne B. Szromba

Confirmation Report – Memory Send

Page : 001
Date & Time: 28-Oct-2004 03:52pm
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End time : 28-Oct 03:52pm

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Job number : 422 *** SEND SUCCESSFUL ***

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Chicago District Office

500 West Madison St., Suite 2800
Chicago, IL 60661
PH: (312) [illegible]
TDD: (312) [illegible]
ENFORCEMENT FAX: (312) [illegible]
LEGAL FAX: (312) [illegible]

FACSIMILE TRANSMITTAL COVER PAGE

OFFICIAL GOVERNMENT BUSINESS
FROM THE EEOC CHICAGO DISTRICT OFFICE LEGAL DIVISION

Date: October 28, 2004

Please deliver the following page(s) to:

Name: Susan Bogart

Fax No: 312-263-5013

From: Jeanne Szromba
Trial Attorney

Phone Number: 312/353-7546

Total Number of Pages: 5 (including transmittal cover page)

Comments: ______________________________

IF YOU DO NOT RECEIVE ALL PAGES OR HAVE ANY PROBLEMS RECEIVING THIS FAX TRANSMISSION, PLEASE CALL:

Contact Person: La Tricia Kazee
Phone Number: 312/886-7492

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Any dissemination, distribution or copying of this communication by anyone other than the intended recipient or the person responsible for its delivery is strictly prohibited.

If you have received this communication in error, please contact this office immediately and either destroy the communication or return it to the above address.

EXHIBIT M

Minute Order Form (06/97)

United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge	John W. Darrah	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	03 C 6851	**DATE**	December 8, 2004
CASE TITLE	EEOC v. Whitehall Hotel, Ltd., et al.		

MOTION:

[In the following box (a) indicate the party filing the motion, e.g., plaintiff, defendant, 3rd party plaintiff, and (b) state briefly the nature of the motion being presented.]

DOCKET ENTRY:

(1) ☐ Filed motion of [use listing in "Motion" box above.]

(2) ☐ Brief in support of motion due _____.

(3) ☐ Answer brief to motion due_____. Reply to answer brief due_____.

(4) ☐ Ruling/Hearing on _____ set for _____ at _____.

(5) ☐ Status hearing[held/continued to] [set for/re-set for] on _____ set for _____ at _____.

(6) ☐ Pretrial conference[held/continued to] [set for/re-set for] on _____ set for _____ at _____.

(7) ☐ Trial[set for/re-set for] on _____ at _____.

(8) ☐ [Bench/Jury trial] [Hearing] held/continued to _____ at _____.

(9) ☐ This case is dismissed [with/without] prejudice and without costs[by/agreement/pursuant to] ☐ FRCP4(m) ☐ General Rule 21 ☐ FRCP41(a)(1) ☐ FRCP41(a)(2).

(10) ■ [Other docket entry] Defendants' Motion for a Protective Order is denied. See reverse side of Minute Order.

(11) ■ [For further detail see order on the reverse side of the original minute order.]

	No notices required, advised in open court.		number of notices	Document Number
	No notices required.		DEC 09 2004	
	Notices mailed by judge's staff.		date docketed	
	Notified counsel by telephone.		docketing deputy initials	51
√	Docketing to mail notices.		date mailed notice	
	Mail AO 450 form.			
	Copy to judge/magistrate judge.			
	courtroom deputy's initials	Date/time received in central Clerk's Office	mailing deputy initials	

(Reserved for use by the Court)

ORDER

Defendants seek a protective order relating to a Rule 30(b)(6) Notice of Deposition in which Plaintiff seeks to have Defendants identify an officer, agent or employee to testify about eleven items regarding, in part, the identity of entities who owned or operated either of the Defendants and the identity and explanation of any and all relationships between and among the Defendants and their parents, subsidiaries and affiliates.

Defendants previously filed a Motion to Quash the same Notice of Deposition for which the Defendants now seek a protective order. Defendants' Motion to Quash was denied because the information sought by Plaintiff was arguably relevant to the EEOC's claim and appeared to be reasonably calculated to lead to the discovery of admissible evidence. In essence, Defendants' present Motion for a Protective Order seeks to limit the deposition addressed in the Motion to Quash, making the same or similar arguments previously rejected by the Court. These arguments have been rejected by the Court.

Based on the above, Defendants' Motion for a Protective Order is denied.

EXHIBIT N

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,	
Plaintiff,	No. 03 C 6851
v.	Judge John W. Darrah
	U.S. Magistrate Judge Ashman
WHITEHALL HOTEL, LTD. and WHITEHALL HOTEL RESTAURANT, INC.	
Defendants.	

TO: ALL PERSONS ON ATTACHED SERVICE LIST

RE-NOTICE OF 30(b)(6) DEPOSITION

PLEASE TAKE NOTICE that, pursuant to Rule 30(b)(6) of the Federal Rules of Civil Procedure, Plaintiff Equal Employment Opportunity Commission (the "EEOC") shall take the deposition upon oral examination of Defendants Whitehall Hotel, Ltd. and Whitehall Hotel Restaurant, Inc. ("Whitehall"), on **Thursday, January 27, 2005** commencing at 9:30 a.m., before a certified court reporter, at the offices of EEOC, 500 W. Madison, Suite 2800, Chicago, Illinois. At the scheduled time and place, Defendants shall present the officers(s), agent(s), or employee(s) who is (are) designated by Defendants to testify on its behalf and who has/have knowledge about the subject matters set forth below. Defendants shall identify prior to the deposition such person or persons who will testify about each subject. The deposition will continue from day to day until completed. The instructions and definitions as set forth in the EEOC's First Set of Interrogatories and Request for Production of Documents should be followed in response to this Notice of Deposition.

Subjects of Deposition

1. Identity of the entity or entities who a) owned the restaurant in the Whitehall Hotel where Eric Oden worked in 2001; and b) operated the restaurant in the Whitehall Hotel where Eric Oden worked in 2001.

2. Identity of the entity or entities who a) owned the Whitehall Hotel in which Eric Oden worked in 2001; and b) operated the Whitehall Hotel in which Eric Oden worked in 2001.

3. Identity of and explanation of any and all legal, contractual, and managerial relationships between or among the entities identified above.

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10. Identity of the entity that employed Danella Walker at any time during 2001.

11. Identity of the entity that employed Thomas Belelieu at any time during 2001.

<u>Documents to Be Produced Prior to Deposition</u>

1. Payroll records from Whitehall Hotel Restaurant Inc. from 2000 and 2001.

2. Payroll records from Whitehall Hotel, Ltd. from 2000 and 2001.

3. Payroll records from 2000 and 2001 from the entity that owned and operated the Whitehall Hotel where Eric Oden worked.

4. Payroll records from 2000 and 2001 from the entity that owned and operated the restaurant in the Whitehall Hotel where Eric Oden worked.

January 7, 2005

Respectfully submitted,

Jeanne B. Szromba

Jeanne B. Szromba
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
500 West Madison Street
Suite 2800
Chicago, Illinois 60661
(312) 353-7546

CERTIFICATE OF SERVICE

Jeanne B. Szromba, an attorney, hereby certifies that she caused a copy of the foregoing Re-Notice of 30 (b)(6) Deposition to be sent to counsel of record at the following addresses:

By Facsimile and U.S. Mail
Susan Bogart.
Law Offices of Susan Bogart
30 North LaSalle Street
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Dated: January 7, 2005

Jeanne B. Szromba
Jeanne B. Szromba

EXHIBIT O

Page 15
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Q. Have your duties changed since 2000?
A. No.
Q. Who do you understand your employer to be, what entity?
A. The Whitehall Hotel.
Q. Since you started working at the hotel have you always considered yourself an employee of the Whitehall Hotel?
A. Yes.
Q. Do you know how many employees the Whitehall Hotel has approximately currently?
A. Currently? 150.
Q. Do you know --
A. The hotel.
Q. The hotel. Are you including employees who work at the other two hotels?
A. No.
Q. This is just in the building that's called the Whitehall Hotel?
A. Yes.
Q. 150. Do you know approximately how many employees worked there in 2000 -- I'm sorry -- in 2001?
A. I recall 140.

Q. Again, we are talking just in the Whitehall Hotel itself?
A. Yes, yes.
Q. Do you know approximately how many employees worked at the Best Western Grant Park in 2001?
MS. BOGART: I am going to object on relevance grounds. There is no reason -- I'll instruct her not to answer. This is the subject of a to-be motion for a protective order.
MS. SZROMBA: You are instructing her not to answer?
MS. BOGART: Yeah, any questions beyond what you have asked right now. It's all the subject of your Rule 30(b)(6). It's not relevant to the present suit.
BY MS. SZROMBA:
Q. In 2001 you mentioned about 140 worked at the Whitehall, the Whitehall Hotel. What departments did they work in? What were the different departments in the hotel in 2001?
MS. BOGART: I am also going to instruct her not to answer as this entity is not the subject of this lawsuit. The subject of your 30(b)(6), but not

this lawsuit.
MS. SZROMBA: The Whitehall Hotel is not the subject of the lawsuit?
MS. BOGART: No.
MS. SZROMBA: So you are instructing her not to answer on that basis?
MS. BOGART: Right.
BY MS. SZROMBA:
Q. Have you heard of a Whitehall Hotel employee named Eric Oden?
A. Yes.
Q. Who did he work for in 2001?
A. The name -- I'm sorry.
Q. Who did Eric Oden work for in 2001?
A. He worked for Bart Hosmer.
Q. What entity employed him in 2001?
A. The restaurant.
Q. Is that the name --
A. The Whitehall Hotel Restaurant.
Q. When you told me a little earlier that approximately 140 people worked at the Whitehall Hotel in 2001, are you including restaurant employees?
A. No.

Q. In 2001 were you the human resources director for the Whitehall Hotel Restaurant?
A. Yes.
Q. And also for the Whitehall Hotel?
A. Yes.
Q. For any other entities?
A. The ones named before.
Q. Those other two hotels?
A. Yes.
Q. So those three hotels plus the Whitehall Hotel Restaurant; is that correct?
A. Yes.
Q. And any other entities for which you were the human resources director in 2001?
A. No.
(WHEREUPON, discussion was had off the record between the witness and Ms. Bogart outside the hearing of other counsel and the court reporter.)
BY MS. SZROMBA:
Q. In 2001 as a human resources director at the Whitehall how many different employees did you manage or, you know, control the HR functions for

Page 21

those employees?

MS. BOGART: I am going to object. She can answer insofar as the restaurant is concerned.

MS. SZROMBA: I am asking about her job as the HR director, how many employees was she involved with. This is perfectly legitimate in a fact deposition for her responsibilities.

MS. BOGART: It's irrelevant. It has nothing to do with this lawsuit.

MS. SZROMBA: Where she went to high school arguably doesn't either.

MS. BOGART: Yes, it does. It has to do with background information.

MS. SZROMBA: As far as how many people she had to manage their HR functions for is what her job is at the Whitehall and how it's changed.

MS. BOGART: She has identified the number of employees. She has identified what her job duties and responsibilities are. You can ask her those questions.

But the only thing that's relevant for this deposition is Whitehall Hotel Restaurant, Inc. and the other entity that's named in the lawsuit and Eric Oden.

Page 22

MS. SZROMBA: Susan, I mean, I know your position.

MS. BOGART: You have got a 30(b)(6) notice which deals with all these other issues.

MS. SZROMBA: No. It only deals with number of employees. But the problem I am having is your --

MS. BOGART: It has got 12, 15 or 20 different entities. So there is no reason to be answering these questions because it will come up in the 30(b)(6).

MS. SZROMBA: If you are instructing the witness not to answer questions because they are not relevant, there is no basis in the federal rules for saying you don't have to answer any question that's not relevant.

MS. BOGART: I believe that it's harassment. I believe it's a fishing expedition. I believe that there is no basis for the EEOC to be asking these questions.

MS. SZROMBA: So will you file a protective order?

MS. BOGART: I object and I am going to file a protective order.

Page 23

MS. SZROMBA: On these questions at this deposition?

MS. BOGART: Of course. It's all related to the 30(b)(6) deposition.

MS. SZROMBA: All right. That's your position. I understand. Because if you are not successful, we are going to have to bring Ms. Walker back as a fact witness to answer these questions.

MS. BOGART: Well, I guess we will.

MS. SZROMBA: Okay.

MS. BOGART: I have no objection to asking questions related to Eric Oden.

MS. SZROMBA: All of my questions are related to this lawsuit. I know you have a difference of opinion on that.

MS. BOGART: I do. The Whitehall Hotel has nothing to do with this witness.

MS. SZROMBA: But you don't instruct a witness not to answer because of your difference of opinion on the breadth of the relevant --

MS. BOGART: I told you I have a problem with the scope of the 30(b)(6) -- this is 30(b)(6) material -- and that we were going to file a protective order. And that's noticed for the 9th,

Page 24

not for today.

And so, you know, if we are going to go forward on the 9th, these questions can be asked on the 9th. I think that that's -- the 30(b)(6) notice is inappropriate at this juncture. And I have said that to the judge, and he said sit down and talk about it.

So if we can't resolve it, then I will be filing a protective order.

MS. SZROMBA: Okay.

BY MS. SZROMBA:

Q. When you started working at the Whitehall Hotel, Ms. Walker, did you receive any policies, employment policies, for the hotel?

A. Yes.

Q. When did you first receive policies relating to Whitehall Hotel?

A. 1994, July.

Q. Was that the month you started at the hotel?

A. Yes.

Q. Do you recall whether the policies you received in 1994 included a policy relating to the Americans with Disabilities Act?

EXHIBIT P

Memo: 30 (b)(6) Deposition of Danella Walker

Subjects of Deposition

1. Identity of the entity or entities who a) owned the restaurant in the Whitehall Hotel where Eric Oden worked in 2001; and b) operated the restaurant in the Whitehall Hotel where Eric Oden worked in 2001.

(A) **Whitehall Hotel Restaurant owned by Whitehall Hotel Restaurant, Inc. which was employer of Eric Oden**

(B) **Whitehall Hotel Restaurant operated by Whitehall Hotel Restaurant, Inc. which was employer of Eric Oden**

2. Identity of the entity or entities who a) owned the Whitehall Hotel in which Eric Oden worked in 2001; and b) operated the Whitehall Hotel in which Eric Oden worked in 2001.

(A) **Whitehall Hotel owned by Whitehall Hotel, LLC; Eric Oden was not employed by Whitehall Hotel, LLC, nor did Eric Oden work in the Whitehall Hotel**

(B) **Whitehall Hotel operated by Whitehall Hotel, LLC; Eric Oden was not employed by Whitehall Hotel, LLC, nor did Eric Oden work in the Whitehall Hotel**

3. Identity of and explanation of any and all legal, contractual, and managerial relationships between or among the entities identified above.

Whitehall Hotel Restaurant, Inc. owns and operates the Whitehall Hotel Restaurant located in the first floor of the 5 story Putnam Building, located adjacent to the 21 story Whitehall Hotel building. Whitehall Hotel Restaurant, Inc. leases space in the Putnam Building from Whitehall Hotel, LLC, the owner of the real property.

There are minimal managerial relationships between several Whitehall Hotel senior management staff and the restaurant staff.

There are no contracts, other than the lease, between Whitehall Hotel, LLC and Whitehall Hotel Restaurant, Inc. There are no other legal relationships between Whitehall Hotel Restaurant, Inc. and Whitehall Hotel, LLC.

4. Identity of and explanation of any and all relationships between and among Whitehall Hotel, Ltd. and its parent, subsidiary(ies), and affiliates.

Whitehall Hotel, Ltd. is owned by individuals and has no parent entity nor any subsidiairs.

Whitehall Hotel, Ltd. affiliates are Whitehall Hotel Restaurant, Inc. and Whitehall Hotel, LLC Whitehall Hotel Restaurant, Inc. is directly 100% owned by Su Yen and beneficially owned by her spouse Bert Yen. Whitehall Hotel, Ltd. is owned directly 100% by Su Yen and Bert Yen. Whitehall Hotel, Ltd. is the corporate manager of Whitehall Hotel, LLC

5. Identity of and explanation of any and all relationships between and among Whitehall Hotel Restaurant Inc. and its parent, subsidiary(ies), and affiliates.

Whitehall Hotel Restaurant, Inc. is owned an individual and has no parent entity nor any subsidiaircs.

Whitehall Hotel Restaurant, Inc. affiliates are Whitehall Hotel Restaurant, Inc. and Whitehall Hotel, LLC Whitehall Hotel Restaurant, Inc. is directly 100% owned by Su Yen and beneficially owned by her spouse Bert Yen. Whitehall Hotel, Ltd. is owned directly 100% by Su Yen and Bert Yen. Whitehall Hotel, Ltd. is the corporate manager of Whitehall Hotel, LLC

6. The number and identity of employees employed on each day of calendar years 2000 and 2001 by the entity who owned and operated the restaurant in the Whitehall Hotel where Eric Oden worked.

The owner of Whitehall Hotel Restaurant, Inc. is an individual and has no employees.

The restaurant was owned and operated by Whitehall Hotel Restaurant, Inc., which was the employer of Eric Oden. The employee information regarding Whitehall Hotel Restaurant, Inc. is contained in the documentory responses to discovery previously provided in this case.

7. The number and identity of employees employed on each day of calendar years 2000 and 2001 by the entity who owned and operated the Whitehall Hotel where Eric Oden worked.

Eric Oden was not employed by the entity operating the Whitehall Hotel.

The employee information regarding the Whitehall Hotel is contained in the documentory responses to discovery previously provided in this case.

8. The number and identity of employees employed by the Whitehall Hotel Restaurant Inc. on each day of calendar years 2000 and 2001.

The employee information regarding Whitehall Hotel Restaurant, Inc. is contained in the documentory responses to discovery previously provided in this case.

9. The number and identity of employees employed by the Whitehall Hotel Ltd. on each day of calendar years 2000 and 2001.

Whitehall Hotel, Ltd. has no employees.

10. Identity of the entity that employed Danella Walker at any time during 2001.

Whitehall Hotel, LLC

11. Identity of the entity that employed Thomas Belelieu at any time during 2001.

Whitehall Hotel, LLC