

UNITED STATES OF AMERICA, :
 :
 Plaintiff, :
 vs. : CA 05-0125-WS-C
 :
 ESCAMBIA COUNTY BOARD OF :
 EDUCATION, :
 :
 Defendant.

This matter is before the Court on the motion to compel filed by plaintiff-intervenor Betty J. Hooks (Doc. 44) and the response of the defendant (Doc. 49). This order is entered pursuant to 28 U.S.C. § 636(b)(1)(A) and Local Rule 72.2(c)(1). Upon consideration of the foregoing pleadings, and attachments, the Court **GRANTS** the motion to compel (Doc. 44).

On July 29, 2005, plaintiff-intervenor served her first discovery request on the defendant. (Doc. 44, Plaintiff-Intervenor's First Discovery Request to Defendant Escambia County Board of Education) Items four and five of that request read as follows:

4. Please produce each document (including correspondence, affidavits, statements, and all other writings)

you provided to the Equal Employment Opportunity Commission in response to or in connection with the charge of discrimination filed by plaintiff-intervenor Betty J. Hooks, charge number 130 A3 0347.

5. Please produce each document (including correspondence, affidavits, statements, and all other writings) you provided to the United States Department of Justice in response to or in connection with the charge of discrimination filed by plaintiff-intervenor Betty J. Hooks, charge number 130 A3 0347.

(*Id.* at ¶¶ 4-5) Defendant produced to the plaintiff-intervenor certain documents it produced to the EEOC and the Department of Justice. (Doc. 44, at 3) However, counsel for plaintiff-intervenor indicated in a letter to defendant's counsel, dated November 15, 2005, that not all such documents had been supplied to Hooks. (Doc. 44, November 15, 2005 Correspondence from Gregory B. Stein, Esquire to Clay R. Carr, Esquire)

I have your supplemental responses to [plaintiff-intervenor's first] discovery request, dated November 10. It is not clear to me from your supplemental responses whether you have withheld any document (other than the letter from Susan Reeves to Herbert Payne) in response to the two items which request copies of documents defendant provided to the EEOC and to the Department of Justice. For example, I do not have documents one would reasonably expect, such as a respondent's 'position statement' to the EEOC. If you have withheld such a document, please produce a 'privilege log' with respect to each document. If you have not withheld any documents which went to the EEOC or the DOJ, simply tell me that as well.

(*Id.*)

In response to the motion to compel further production of documents submitted to the EEOC or the Department of Justice, counsel for the defendant has stated that she “is in the process of determining if there are other documents (in addition to the documents already produced) in the possession of either the undersigned or the defendant that are responsive to this specific request.” (Doc. 49, at 2)

Given the nature of the defendant’s response, the Court **GRANTS** the plaintiff-intervenor’s motion to compel further production of documents submitted to the EEOC and Department of Justice by the Escambia County Board of Education. This supplemental production is **ORDERED** to be made on or before **March 28, 2006**.

B. Plaintiff-Intervenor’s Second Discovery Request. On October 28, 2005, Hooks served upon defendant her second discovery request which asked for production of certain documents and propounded certain interrogatories.¹ (Doc. 44, Plaintiff-Intervenor’s Second Discovery Request)

¹ Specifically, Hooks asked the defendant to identify every instance where sexual harassment occurred or where a complaint of sexual harassment was received involving a student or employee of Escambia County Middle School during the time Herbert Payne was principal of that school and the specific identities of those suffering the sexual harassment. (Doc. 44, Plaintiff-Intervenor’s Second Discovery Request) She also asked for the personnel file of Victor Payne and the names, addresses and telephone numbers of each person employed at Escambia County Middle School during the school years 1999-2000, 2000-2001, and 2001-2002. (*Id.*)

The defendant made the following response to this discovery request:

B. The plaintiff-intervenor has requested information concerning sexual harassment complaints made for alleged sexual harassment which occurred during the time that Herbert Payne served as principal of Escambia County Middle School. The defendant asserts that two allegations of sexual harassment were made for the time period during which Herbert Payne was principal. Those allegations were made against employees Paul Ikner and Victor Payne. The allegation against Victor Payne was made by a student. The documents concerning these allegations that have not already been produced are attached hereto and are numbered 1-73. These documents are inclusive of the documents that are responsive to Plaintiff-Intervenor's Request Number 2 which seeks the production of the personnel file of Victor L. Payne.

C. Documents responsive to Plaintiff-Intervenor's Request Number 3 are attached hereto and numbered 75-78.

(Doc. 44, Defendant's Response to Plaintiff-Intervenor's Second Discovery Request)

In the motion to compel, it is Hooks' contention that these responses were much too general and that they were not signed under oath. (Doc. 44, at 2) In response to the motion to compel, defendant states the following: "Mr. [Herbert] Payne has . . . retired from his employment with the Defendant. As such, the defendant had difficulty obtaining information from Mr. Payne to respond to the plaintiff-intervenor's discovery. Nevertheless, the **defendant responded to the plaintiff-intervenor's requests with the information it**

had at the time. Since the time of the filing of the defendant's responses, the defendant has had difficulty in obtaining the requisite signature, under oath, required for interrogatory responses. . . . [T]he undersigned expects to obtain said signature under oath within the next 7 days[.] (Doc. 49, at 1-2)

The defendant's response to the motion to compel satisfies this Court that the defendant has obtained, or will soon obtain, further information in response to plaintiff-intervenor's second discovery request. Accordingly, the motion to compel, in this regard, is **GRANTED** and defendant is **ORDERED** to supply executed interrogatory responses to those interrogatories propounded by the plaintiff-intervenor in her second discovery request on or before **March 28, 2006**. The responses should specifically track the propounded interrogatories.

C. Defendant's Initial Discovery Disclosures. Finally, in the motion to compel, plaintiff-intervenor avers that "[p]ursuant to Rule 26(a)(1) [the] defendant identified [] insurance agreement[s] within the parameters of Rule 26(a)(1)(D), saying, 'Insurance agreements which may be applicable to the claims in this case will be made available for inspection at a time and place mutually agreeable to all counsel of record.'" (Doc. 44, at 4) However,

plaintiff-intervenor, to date, has not received copies of these insurance agreements (Doc. 44), a fact agreed to by the defendant (Doc. 49, at 2 (“The defendant asserts that the plaintiff-intervenor has not previously attempted to reach an agreement with the undersigned about the production of insurance agreements. . . . [T]he defendant’s failure to provide a copy of same has been a mere oversight, and will be rectified within seven days.”)).

In light of the foregoing, the motion to compel production of insurance agreements from the defendant is **GRANTED** and defendant is **ORDERED** to produce a copy of those agreements to counsel for the plaintiff-intervenor not later than **March 28, 2006**.

CONCLUSION

The motion to compel filed by plaintiff-intervenor Betty J. Hooks (Doc. 44) is **GRANTED IN ITS ENTIRETY**.

DONE and **ORDERED** this the 21st day of March, 2006.

s/WILLIAM E. CASSADY
UNITED STATES MAGISTRATE JUDGE