

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

U.S. EQUAL EMPLOYMENT	)	CIV. NO. 06-00451 SPK-BMK
OPPORTUNITY COMMISSION,	)	
	)	
Plaintiffs,	)	ORDER (1) GRANTING IN PART
and	)	AND DENYING IN PART EEOC'S
	)	APPLICATION FOR RENEWED
ABDULLAY YAHIA, AMNED AL-	)	PROTECTIVE ORDER, AND (2)
MLHANY, AHMED ALMRAISI,	)	DENYING WITHOUT PREJUDICE
NAGI A. ALZIAM, MUTHANA A.	)	NCL'S MOTION FOR RULE 37
SHAIBI, NORK YAF AIE, and	)	SANCTIONS
SAMED KASSAM,	)	
	)	
Plaintiffs-Intervenors	)	
	)	
vs.	)	
	)	
NCL AMERICA INC.,	)	
NORWEGIAN CRUISE LINE	)	
LTD., AND NORWEGIAN	)	
CORPORATION LTD,	)	
	)	
Defendants.	)	
	)	

ORDER (1) GRANTING IN PART AND DENYING IN PART EEOC'S
APPLICATION FOR RENEWED PROTECTIVE ORDER, AND (2) DENYING
WITHOUT PREJUDICE NCL'S MOTION FOR RULE 37 SANCTIONS

On March 22, 2007, the Court issued an oral ruling denying the motion for a protective order filed by Plaintiff Equal Employment Opportunity Commission ("EEOC"). At issue was whether, and to what extent, NCL should be allowed to depose the EEOC investigators regarding the drafting of the EEOC

charges. The Court ruled at that time that Defendant NCL America Inc. (“NCL”) could question the EEOC investigators as to the facts they relied upon, but not as to their mental impressions or strategy.

Five days later, before the written order was filed, the EEOC filed a motion titled “Emergency Ex Parte Application for Renewed Protective Order, Clarification on Court’s Oral Ruling, a Written Ruling on the Merits Regarding Protective Order, and To Suspend Such Deposition.” Moreover, EEOC did not produce the investigators NCL sought to depose. In response, NCL filed a motion for Rule 37 sanctions against EEOC. These two motions were heard on April 30, 2007.

At the hearing, counsel for EEOC indicated continuing uncertainty in three specific areas: (1) to what extent NCL could inquire into the drafting of the EEOC charges; (2) whether NCL could depose Mr. Tungol under Rule 30(b)(6), or whether the EEOC’s amended interrogatory responses sufficed; and (3) whether NCL was entitled to discover information regarding the EEOC Charge filed by third party Abdulla Nasser.

The EEOC’s motion is hereby GRANTED IN PART and DENIED in PART. First, the Court reiterates that NCL can depose EEOC investigators regarding the facts upon which the EEOC charges were based and from where

those facts were obtained, but may not seek information related to the investigators' mental impressions, why they did or did not pursue a certain course or line of inquiry, or EEOC's legal strategy. Second, the Court will allow NCL to depose Mr. Tungol. However, once again, NCL may question Mr. Tungol only regarding the underpinnings of the EEOC's interrogatory responses, not regarding legal strategies or other privileged information. Third, NCL may not discover information regarding the EEOC Charge filed by third party Abdulla Nasser. EEOC indicated at the hearing that it did not rely on information in Nasser's file in drafting the charges at issue here.

Finally, NCL's motion for sanctions is hereby DENIED WITHOUT PREJUDICE. The Court recognizes that the parties may not have fully understood the Court's March 22, 2007 ruling. Now that these issues have been clarified, however, the Court expects that the parties will comply fully with the Court's ruling and will move forward with the depositions and other discovery that are requested pursuant to this ruling. Should this not be the case, NCL may renew its motion for sanctions at a later date.

IT IS SO ORDERED.



/s/ Barry M. Kurren
United States Magistrate Judge
Dated: May 2, 2007

EEOC v. NCL America Inc.; Civ. No. 06-00451 SPK-BMK; ORDER (1) GRANTING IN PART AND DENYING IN PART EEOC'S APPLICATION FOR RENEWED PROTECTIVE ORDER, AND (2) DENYING WITHOUT PREJUDICE NCL'S MOTION FOR RULE 37 SANCTIONS.