

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

NOT FOR PUBLICATION

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EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,

Plaintiff,

- against -

GRACE EPISCOPAL CHURCH OF
WHITESTONE, INC and THE EPISCOPAL DIOCESE
OF LONG ISLAND,

Defendants.
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MEMORANDUM & ORDER

No. 06-CV-5302 (ERK) (WDW)

KORMAN, J.:

I assume familiarity with the background of this case. In an order dated July 3, 2007, I denied the Equal Employment Opportunity Commission's ("EEOC") partial motion for summary judgment and granted the Episcopal Diocese of Long Island's ("Diocese") motion to dismiss, with leave to the EEOC to amend its complaint. The EEOC moved for reconsideration of the order granting the motion to dismiss. I denied the EEOC's motion for reconsideration on December 11, 2007. On December 18, 2007, the EEOC filed an Amended Complaint with forty-three paragraphs of additional assertions. The Diocese now moves to dismiss the EEOC's Amended Complaint on the ground that the EEOC did not sufficiently plead that Diocese constitutes an employer, as defined by Title VII of the Civil Rights Act of 1964, as amended 42 U.S.C. § 2000e *et seq.* ("Title VII").

With all inferences drawn in favor of plaintiff as the non-moving party, the EEOC's Amended Complaint meets the flexible plausibility standard set out in *Bell Atlantic Corp. v. Twombly*, 127 S. Ct. 1955 (2007), and clarified in *Iqbal v. Hasty*, 490 F.3d 143 (2d Cir. 2007), *cert. granted*, *Ashcroft v. Iqbal*, 76 U.S.L.W. 3417 (U.S. June 16, 2008) (No. 07-1015). The

parties should proceed with bifurcated discovery, in which the EEOC should first focus exclusively on determining the precise ties between the Diocese and Grace Church in an effort to determine whether there are genuine issues of material fact regarding whether these two entities can properly be categorized as joint-employers. After discovery is complete with respect to the question of whether the Diocese is a joint-employer, the Diocese is free to move for summary judgment.

Brooklyn, New York
July 10, 2008

SO ORDERED.

Edward R. Korman

Edward R. Korman
Senior United States District Judge