

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

EQUAL EMPLOYMENT	)	
OPPORTUNITY COMMISSION,	)	
	)	
	)	Plaintiff,
and	)	
	)	Case No. 01 C 4427
MARIAN TOWNSON, et al.,	)	
	)	
	)	Plaintiff-Intervenors,
	)	
v.	)	Judge Joan B. Gottschall
	)	
INTERNATIONAL PROFIT	)	
ASSOCIATES, INC.,	)	
	)	
	)	Defendant.

**ORDER**

Before the court is a renewed motion for sanctions submitted by defendant International Profit Associates (“IPA”) charging the Equal Opportunity Employment Commission (“EEOC”) with various discovery abuses. This is the third round of briefing on these issues. IPA’s original motion for sanctions was denied by Magistrate Judge Denlow on February 23, 2004. IPA timely filed objections to Judge Denlow’s order, which this court overruled because IPA’s papers were “long on outrage and short on the kind of information the court needs to evaluate Judge Denlow’s ruling.” *See EEOC v. IPA*, No. 01 C 4427, Doc. No. 300, at 2 (N.D.Ill. Oct. 7, 2004). The court invited IPA to resubmit its motion for sanctions, with the caveat that IPA provide, at minimum, the following information:

- (1) the specific discovery failure at issue, indicating specifically what occurred and when;
- (2) the date on which (and the form in which) IPA complained of that failure to Judge Denlow;

- (3) Judge Denlow's ruling;
- (4) if Judge Denlow's ruling was unsatisfactory, when that ruling was appealed to this court; and
- (5) if Judge Denlow's ruling was satisfactory but subsequently violated by the EEOC, the specifics of the violation and the efforts, if any, to bring the violation to Judge Denlow's attention.

*Id.* As the court cautioned IPA at the time, “[s]pecificity about chronology is particularly important” because Judge Denlow’s ruling was based in part on IPA’s alleged delay in bringing matters to his attention. *Id.*

IPA’s renewed motion now contains numerous allegations in support of the first criterion, but is still deficient in two respects. First, many of the EEOC’s alleged discovery failures involve instructions not to answer deposition questions posed by IPA’s attorneys, but IPA has not provided the court with the deposition transcripts at issue, instead providing exhibits purporting to contain brief excerpts from various depositions (often including only the question posed and the instruction not to answer). This will not do. Putting aside for the moment the fact that these unauthenticated text printouts are not evidence, context is especially important here, particularly in light of the fact that, in some cases, the EEOC may have been entitled to issue an instruction not to answer (for example, in order to enforce a limitation on questioning directed by Judge Denlow). IPA cites the “voluminous nature” of the deposition transcripts as well as “issues with respect to the protective order” in defending its decision not to submit the relevant deposition transcript excerpts, but the court does not find these reasons, without more, to be persuasive. The failure to include evidence of alleged discovery abuses stops this court’s review at the threshold. If IPA wants the court to take notice of what transpired in these depositions, it must provide the relevant portions of the transcripts.

Any issues with the protective order presumably may be addressed by filing the transcripts under seal.

Second, the structure of IPA's brief makes it difficult to ascertain readily whether IPA has complied with the court's instructions to provide the chronology of alleged violations, including when each was brought before Judge Denlow and what transpired after his ruling. The EEOC wants this court to deny IPA's renewed motion for sanctions in its entirety for "fail[ing] to identify when and how it complained" of the alleged discovery failures, but the EEOC probably overstates the degree of IPA's noncompliance with this court's previous order. Although the structure of IPA's brief is not optimal (a clump of alleged violations followed by a section disputing findings of waiver rather than the separate treatment and chronology of each alleged discovery violation contemplated by the court's prior order), IPA appears to have provided evidence of at least some instances where it raised an issue in front of Judge Denlow and he ruled on IPA's motion. Accordingly, this court will consider IPA's renewed motion for sanctions to the extent that it has provided each of the items listed in this court's Oct. 7, 2004 order.

To facilitate the court's analysis, IPA shall provide a table illustrating its compliance with the information requested in the court's prior order. The columns of the table should list the five categories of information previously requested by this court, and each specific alleged discovery failure should be listed on a separate row. The individual table entries should provide the information requested in each column heading (including dates), as well as a citation *both* to the specific page number of IPA's renewed motion where the information originally was provided *and* to the specific page numbers of the exhibit(s) relied upon by IPA in support of its statement. Providing information in this format also will serve to demonstrate the extent to which IPA has

complied with the court’s requirement that IPA’s renewed motion be “specific, self-contained, coherent, and factually supported.” *Id.* at 4.

IPA is given twenty-one days from the date of entry of this order to supplement its renewed motion with the deposition transcripts and compliance table as described above. Failure to do so will result in the denial of IPA’s motion with prejudice.

ENTER:

                    /s/                      
Joan B. Gottschall  
United States District Judge

DATED: May 31, 2005