

Orlowski v. Dominick's Finer Foods

United States District Court for the Northern District of Illinois, Eastern Division

September 7, 1995, Decided; Order entered nunc pro tunc September 7, 1995 ; September 11, 1995, DOCKETED

Case No. 95 C 1666

Reporter: 1995 U.S. Dist. LEXIS 13197; 1995 WL 549096

HELENE ORLOWSKI, MELBA J. KOCH, MARGARET MROZOWSKI, CAROL ANN SCHMALL, ALMA L. AGUIRRE, ROANN D. KEATY, on behalf of themselves and all other persons similarly situated, Plaintiffs, v. DOMINICK'S FINER FOODS, INC., Defendant.

Prior History: [*1] Original Opinion of August 22, 1995, Reported at: [1995 U.S. Dist. LEXIS 12468](#).

Counsel: For HELENE ORLOWSKI, MELBA J KOCH, on behalf of themselves and all other persons similarly situated, MARGARET MROZOWSKI, CAROL ANN SCHMALL, ALMA L AGUIRRE, plaintiffs: Jeffrey Irvine Cummings, Davis, Miner, Barnhill and Galland, P.C., Chicago, IL. Brian R Holman, Friedman & Holman, Chicago, IL. Jeffrey Mark Friedman, Friedman & Holman, Chicago, IL. For ROANN D KEATY, plaintiff: Brian R Holman, Friedman & Holman, Chicago, IL. Jeffrey Mark Friedman, Friedman & Holman, Chicago, IL.

For DOMINICK'S FINER FOODS, INC., defendant: Mark Andrew Lies, II, John T. Murray, Seyfarth, Shaw, Fairweather & Geraldson, Chicago, IL. Stephanie L. Perl, Seyfarth, Shaw, Fairweather & Geraldson, Chicago, IL.

Judges: ARLANDER KEYS, United States Magistrate Judge. Judge Elaine E. Bucklo

Opinion by: ARLANDER KEYS

Opinion

ORDER

Defendant's Motion for Reconsideration of the Court's August 22, 1995 Memorandum Opinion and Order is denied. However, to the extent there is a need for clarification of its Memorandum Opinion and Order, such clarification is as follows:

The Court did not state, and did not mean to imply, that Defendant is obligated to provide information and documents

to Plaintiffs *only* if such information is maintained in computer databases. Rather, because Plaintiffs' counsel stated his belief that most of the requested information is accessible by computer, the Court indicated that, if such assumption is erroneous, Defendant should so respond. This should be done in reference to each specific request. In those instances where specific requested information is not stored in computer databases or otherwise accessible by computer, Defendant should inform Plaintiffs as to how such information is maintained so as to facilitate good faith efforts, by both parties, in providing and obtaining such information [*2] without the necessity of examining 16,000 employees' personnel folders. ¹

As set forth in the Memorandum Opinion and Order, Plaintiffs allege, inter alia, that Defendant discriminates against its female and Hispanic employees in promotions, training, work hours, work assignments, and full-time and part-time status. They allege that female and Hispanic employees, although better educated and better qualified, are relegated to the lower-paying jobs and denied training for and promotions to the higher-paying jobs. In this regard, they specifically allege that an overwhelming majority of Defendant's management personnel are males. Clearly, the information requested in Request Nos. 9, 12, 16 and 18 of the Second Request, and Request Nos. 1, 2 and 3 of the Third Request is relevant to these allegations. These requests, for the most part, seek [*3] information concerning those individuals who were hired and promoted to *management* positions. The other requests which Defendant contends would overburden its staff relate to information regarding its assignment of employees to full-time and part-time positions, work assignments and the names, race, sex and ethnicity of its employees who have participated in its employee development or career advancement programs. Defendant implies that none of the requested information can be provided without having to review thousands of personnel files. Defendant's general assertions in this regard, without more, will not suffice. For example, it would not appear to be necessary to examine thousands of personnel files in order to respond to Request No. 16, which seeks documents listing the managers, co-managers, assistant managers and department managers of each of Defendant's stores.

¹ This should not be interpreted as a concession by the Court that, to require Defendant to review employees' personnel folders, in and of itself, would be unduly burdensome.

In view of the clear relevancy of the information being sought, Defendant has not shown that to provide the requested information, in some form, would be unduly burdensome.² Accordingly, Defendant's Motion for Reconsideration is denied and its Motion for Clarification is granted only to the extent set forth [*4] above.

ENTER:

ARLANDER KEYS

United States Magistrate Judge

Dated: 9/7/95

² As noted by Defendant in the instant Motion (Page 10). Plaintiffs' counsel has indicated a willingness to be flexible in discussing alternatives to the wholesale production of personnel files if Defendant shows, in fact, that the requested information is maintained only in such files. Apparently, no such discussions have yet taken place. Instead, Defendant has chosen to file the instant Motion.