

EEOC Plaintiff Must Disclose Passwords to Former Employer

A Colorado federal judge ordered that a person suing her former employer must provide all of her cell phone messages, social media passwords, and passwords to access any of her email accounts or blogs for the judge's *in camera* review.

The former employee, along with the Equal Employment Opportunity Commission, sued The Original Honeybaked Ham Company of Georgia, Inc. alleging sexual harassment, hostile environment, and retaliation under the Civil Rights Act of 1964. In requesting the messages and passwords, the defendant argued that the plaintiff “utilized electronic media to communicate” with other plaintiffs and discussed her emotional state and other topics on the Internet.

The judge found that the information requested may be compared to a file folder titled “Everything About Me,” which the plaintiff shared with others. “If there are documents in this folder that contain information that is relevant or may lead to the discovery of admissible evidence relating to this lawsuit, the presumption is that it should be produced,” the judge wrote. “The fact that it exists in cyberspace on an electronic device is a logistical and, perhaps, financial problem, but not a circumstance that removes the information from accessibility by a party opponent in litigation.”

The opinion noted that the plaintiff “posted on her Facebook account statements that discuss her financial expectations in the lawsuit; a photograph of herself wearing a shirt with the word ‘cunt’ in large letters written across the front (a term that she alleges was used pejoratively against her, also alleging that such use offended her); [and] musings about her emotional state” and her post-termination life.

The judge required the plaintiff to make the information available to a special master to review before the judge's inspection.

[Equal Employment Opportunity Commission et al. v The Original Honeybaked Ham Company of Georgia, Inc.](#), D.C. Colorado, No. 11 CV 2560, issued November 7, 2012.