

DJW/sr

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS**

**SHARON R. CAMPBELL-MARSHALL,**

**Plaintiff,**

**v.**

**Case No: 08-cv-2320-CM-DJW**

**JC PENNY COMPANY, INC.,**

**Defendant.**

**ORDER FOR REPRODUCTION OF RECORDS OF THE  
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION**

This matter is before the Court on Plaintiff's Application for Appointment of Counsel under Title VII of the Civil Rights Act and the Age Discrimination in Employment Act (doc. 3). Relevant to the pending request, the Tenth Circuit Court of Appeals has identified "the merits of plaintiff's case" as one of four factors to consider in evaluating applications for appointment of counsel.<sup>1</sup> If a plaintiff's discrimination complaint appears legally sufficient on its face, "a court ordinarily should review the [Equal Employment Opportunity Commission ("EEOC")] investigative file" to help it determine whether the case has merit.<sup>2</sup>

Given this directive, the Court finds the EEOC investigative file in the above-referenced matter should be reviewed by the Court in evaluating the merits of Plaintiff's case. The Court therefore directs the EEOC to produce such documents for inspection and copying by the Court with the qualification that the EEOC, upon review of its file, may withhold from production any

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<sup>1</sup>*Castner v. Colorado Springs Cablevision*, 979 F.2d 1417, 1420-22 (10th Cir. 1992)

<sup>2</sup>*Id.* at 1422.

documents that are deliberative or conciliatory in nature or that constitute attorney work product or other restricted information.

Accordingly, the EEOC is hereby ORDERED to produce for inspection and copying by the Court, subject to the qualification set forth in the preceding paragraph, all records pertaining to the EEOC claim filed by Plaintiff against Defendant in the above-referenced action (**EEOC charge number 563-2007-02188**). The documents described may be mailed or hand-delivered to the attention of the undersigned Judge at the following address:

219 Robert J. Dole U.S. Courthouse  
500 State Avenue  
Kansas City, Kansas 66101-2428

**IT IS SO ORDERED.**

Dated in Kansas City, Kansas on this 17<sup>th</sup> day of July, 2008.

s/ David J. Waxse  
David J. Waxse  
U.S. Magistrate Judge

cc: All counsel and *pro se* parties  
and  
Barbara Seely, Regional Attorney  
U.S. Equal Employment Opportunity Commission  
Robert A. Young Building  
1222 Spruce Street, Room 8.100  
St. Louis, MO 63103