

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

ALEX HELD,

Plaintiff,

vs.

Case No. 10-2393-EFM

FERRELLGAS, INC,

Defendant.

MEMORANDUM AND ORDER

Presently before the court is Defendant's motion to compel discovery (Doc. 46). For the following reasons, the court grants the motion.

This is an employment discrimination case involving a claim of retaliation in violation of Title VII of the Civil Rights Act of 1964. Plaintiff began working for defendant, a propane supplier, on February 13, 2008, and was fired on April 17, 2009. Generally, Plaintiff contends that Defendant retaliated against him for reporting a complaint of reverse gender discrimination or sexual harassment.

On March 25, 2011, Defendant submitted a second set of written discovery, including interrogatories and requests for production, seeking data from Plaintiff's Facebook account and information and data from Plaintiff's job searches via various online job search engines.¹

¹ Doc. 28.

Plaintiff objected, stating that the information is irrelevant, confidential and private. The parties conferred and attempted to resolve the dispute, to no avail.

Plaintiff testified at his deposition that his coworker began subjecting him to a hostile environment prior to his termination in April 2009. At his deposition, Plaintiff could not recall whether he posted anything on Facebook that may be relevant to this case. Defendant claims that information from Plaintiff's Facebook page during Plaintiff's tenure at Ferrellgas is relevant. This court agrees. Further, it appears that Defendant is attempting to mitigate Plaintiff's privacy concerns by allowing Plaintiff to download and produce the information himself, rather than providing login information. Indeed, Defendant itself notes that it is not seeking unfettered or unlimited access to Plaintiff's Facebook, but rather limited access during the relevant time frame. As such, Defendant's motion to compel regarding the Facebook information is granted.

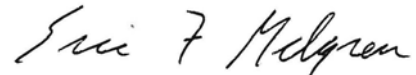
Defendant also seeks to compel the production of account data for each job search website identified in response to its interrogatory.² Defendant claims this information is relevant for several reasons. First, Defendant claims that any effort to find other employment bears on Plaintiff's commitment to his job, his perspective on the working environment at Ferrellgas, and any purported emotional distress. Second, Defendant claims that after his employment, Plaintiff's efforts to find other employment are relevant to emotional distress and actual damages and mitigation efforts. This court agrees. Accordingly, Defendant's motion to compel regarding the job search data is granted.

² Defendant initially requested registration information, account detail, and login information. After Plaintiff objected, Defendant narrowed its request and asked Plaintiff to download and produce the account data for each job search website identified in response to Defendant's interrogatory.

IT IS THEREFORE ORDERED that Defendant's motion to compel discovery (Doc. 46) is GRANTED.

IT IS SO ORDERED.

Dated this 31st day of August, 2011.

A handwritten signature in black ink, reading "Eric F. Melgren". The signature is written in a cursive, flowing style.

ERIC F. MELGREN
UNITED STATES DISTRICT JUDGE